THE

STANDARD

OF

LIBERTY

AN

OCCASIONAL PAPER

BY DEMOCRITUS.

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THE writer of this had some hesitation whether he should give his real name to the public, or use a feigned one. There were reasons for and against. To go into a detail of these as they passed in his thoughts, will not be necessary. It is sufficient to observe, that, except in official communications it is not customary to give the real name; and yet it has its advantages. It excites attention, as, in a deliberative body, when it is announced that such a one is up; that such a speaker occupies the floor. Nor, is there any impropriety in giving the name, unless it carries with it the appearance of ostentation. This will a good deal depend upon circumstances, of which the person himself who publishes, must, in the first instance be the judge. But I hold it, that, in a republican government, no man ought to commit a thought to paper, which he is not willing to avow, and which he does not count upon while he writes, as that which one day may come to light, and be known as his production. I say in a republican government; because where the government is not free, there is an excuse; or perhaps a justification for anonymous stricture. It was in the hall of a despot that "There came forth the fingers of a mans hand, and wrote over against the candlestick upon the plaister of the wall of the kings palace, *and the king saw the part of the hand that wrote.*" It was after the manner of men that the *physiognomy* was concealed. But in this happy govern-

ment which we *yet enjoy*, no man has any thing to fear from a free communication of opinion; provided that he injures no mans reputation, or violates the law. A rare felicity indeed, which no man can appreciate but who has considered or who has felt the effect of a contrary state of things. It is not therefore through fear, or an apprehension of injury to person or estate, that I keep myself out of view, and *put forth only the hand that writes;* but because I wish to escape the imputation of forwardness, and lest my words may lose their weight by the prejudice which an idea of self-sufficiency may fix against them. For the coming forward on grave subjects does carry with it the impression that it is to instruct; and an ostensible manner is apt to affect the self-love of men.

The title which I have assumed "The Standard of Liberty," may seem to arrogate more to one's self than would become a modest man; but it is to be considered that, in all armies the standard is carried by a subaltern, and it does not bespeak a leader to have the care of an ensign, but the contrary; though it is at the movement of this, that the troops are halted or march The fact is, by the Standard of Liberty I mean, the cause which I have in view, and *not the abilities by which I can support it.*

The great objects which at present occupy attention in this commonwealth, are the *re-election of the Governor, and the preservation of the Constitution.* These though distinct and independent, yet at the present time are linked together in every ones mind. Hence it is that both will be occasionally touched upon in the course of these observations. The first of these objects, the re-election of the Governor will introduce unavoidably some attention to an address said to be by some of the members of the legislature of the state, who remained at the seat of government after the ending of the last session, and had a meeting of which John Steel was chairman, and J. Mitchel, secretary. This address is not a public document; for though it purports to be that of a meeting consisting of members of the legislative body, yet they are not supposed to have been convened in a public capacity: nevertheless under circumstances, it would seem to us that it is a paper which is entitled to attention beyond the mere weight of the reasons which it has advanced, or the strength of the sentiments which it contains. We hope therefore to be excused in the notice we take of it: it will be

but little, and with that candour of which perhaps the addressers would not seem to have set the example. The certificates adjoined we consider as making a part of the address; and hence our allusions will extend to both.

We do not mark it as an instance of unfairness, because it does not nescessarily involve it that the addressers early take notice, of the "fulmination hurled by the Governor at the heads of traitors, tories, refugees, and apostate whigs." For it is not clear that this was thrown out as reminding his opponents in his first election of these intemperate expressions, and which can be accounted for only on the ground of a mind greatly wounded by opposition, and the contumely cast upon him by the adversary journals in the course of the contest. For though in fact *this reminding was calculated to have an effect;* yet it cannot have great at the present day, when it is considered for what purpose it might have been intended. The fact is, the candidate had been greatly wounded by opprobrium, personal, and political in the course of the competition, and naturally extended his resentment beyond the anonymous correspondents, to the whole of those opposed to him. For it was presumed by him that the whole were countenancing and approving. A consequence which we will candidly admit did not necessarily follow; for in war, even where an army is under discipline and a leader has authority to restrain excesses, yet he has not always the power. In the case of a contest of the sovereign people in elections, no man has either the authority or the power. Who in this case could restrain scurrility? Yet every liberal man has done what he could do: he excused the irritation produced by it.

But the addressers would seem to remark that if he did not qualify, or formally retract these expressions afterwards, yet he sufficiently evinced by his "amicable dispositions and associations, that he could forgive *his former libellers*." But if those "who had formerly calumniated him, now became his flatterers," what did they get from him, *but civility in return*? Has he appointed any of them to office?

The addressers take notice of expectations on the part of those to whom he owed his elevation. And even of "a specific engagement drawn from him, at an early period," to this effect. The policy of this we cannot undertake to arraign, though we lament the necessity. It was in fact the expedient of retaliation. The

Federal administration under John Adams had assumed it as a policy, and those in this state attached to the administration, justified the measure. The writer of this had it from the candidate who was in opposition to the present Governor, and which candidate was then a Senator of the United States, and from his standing in that body, might be said to be of the cabinet: he had it from this Senator, that this was the indispensible policy of the United States administration. For asking him why it was that Madison, Livingston, &c. had not been selected for the embassy to France, on the principle of sending those who might be supposed to be most acceptable to that people, as John Jay was supposed to be chosen for Great Britain, his answer was, that, it was the policy adopted "*to trust no one that was not attached* to the administration."

This policy, or at least practice, shewed itself, and was avowed, in some places, down to the dealing with a merchant, or the employment of a mechanick. It could not therefore be otherwise, but that the public mind on the other side, would look for the counterpart when it came its turn. The truth is, that in all contests of party, there are expectations of office among the coadjutors. While the Chief looks at the chief place, the subordinate has his eye upon one correspondent to his situation. On a victory, as far as it is practicable this expectation must be gratified.

Tros Tyriusque nullo——

is not a motto for such an occasion.—No doubt it is painful to the distributor, and a great draw-back upon the felicity of his success. Will any man suppose that Governor M'Kean did not feel pain in executing this task. But, firmness of temper, and fidelity to expectations has enabled him to go through with it; even the addressers have not advanced a complaint against him on this head. His appointments have been confined "to those to whom he owed his elevation," unless we except the case of this Bronson a justice of the peace of whom mention is made in the certificates, and respecting whom it would not seem to be agreed upon amongst republicans themselves, as they are called, as to the character of his standing, and as to his pretentions. Setting aside this solitary case which it would seem is questionable, his selections as far as we have been able to learn, have been confined to those, of his own party. The only complaint amongst these,

has been that he has not always been found to prefer the most worthy. But it is impossible but that individual expectations will be frustrated, and the less deserving or qualified prefered, where the information cannot always be correct, and the judgment of selection not that of a perfect mind. It is not to be supposed but that every man counts upon himself something, and perhaps more than he ought to count, and even if it should never come into his head to think of an office there are others who will suggest it to him, from a disposition to play with his vanity, or the mere love of abstract mischief; though in general, there is a design in these things. The man who has expected, and has not obtained an office, is unwilling to discover that he had pretensions, but takes his revenge by setting some other on the Governor, as one who had merited preferment, and had been neglected. "You ought to have been the prothonotary; you ought to have been the register, and recorder; you ought to have been the associate judge," though at the same time it is himself that he is thinking of as the person who ought to have been one of these.

Executive patronage under our constitution, is thought to put the Governor beyond the reach of the people; that when he has fenced himself with appointments under him, it is difficult, if not impossible to prevent his re-election. So far is this from being the fact, that it is his appointments which give him all his trouble, and lay the foundation of an opposition. We need not recur to a saying of Lewis 14th to prove this; that when he had confered an office or an honour, "he made many dissatisfied, and one man *ungrateful.*" He is ungrateful, either because it is the nature of an obligation to produce ingratitude; or because the man thinks himself injured in geting less than his due. If I am to administer a government, and wish a continuance in office, or to escape enmities, let me have no appointments in my gift. It is invidious to select the qualified or bestow emoluments. What a host does not a Governor raise up against himself, in the exercise of such a trust? There can be but one man in many appointed to office; and yet all, or most expect offices. So blind is self-love that few men suspect their incapacity, or call in question their desert.

I will not say; it would be unjust to say that there are not cases where the disapprobation of an executive measure may not spring from the purest motives of disinterested patriotism.

But I mean only to illustrate this point that the power of confering offices carries with it more to affect than to protect; and this depending on the nature of things when so many are to expect and so few to receive.

It is evidently the general understanding of all who observe the springs of action in political characters, that their antipathies have their origin in something personal. This may be true of those who obtain a leading in political affairs. But doubtless there will always be a mass acted on by every one of these to an extent proportioned to his influence, and with whom there is no intrinsic motive or principle, of disappointment, or hope. Nevertheless it is still the pique of disappointed ambition that in most cases gives the first impulse to a warm agitator who sets the public mind in motion. I do not apply this to General Steel, because I do not know what ground there may be for it. On the contrary I will suppose that in his case, and it is a prominent one, virtue alone prompted. Yet in his capacity of chairman he has sanctioned things, and secretary Mitchel has attested what cannot be easily reconciled to the idea of a dispassionate and pure mind. By purity of mind I mean freedom from ambition, and the impulses of self-love which obstruct candour, and inflame things both in imagination and expression. I take an instance from that paragraph in the address which respects the judges of the Supreme Court. It is a remarkable one. Let us try if it will bear examination:

" In the same spirit of professional insolence, that has prevailed at the bar and on the bench of this state ; one of the judges of the Supreme Court, who had not been impeached because the evidence taken would not sanction that course of proceeding against him, undertook to address the Legislature in a manner that demanded from us the assertion of our rights and privileges as a protection against premeditated insult ; an address was presented by more than *two thirds of each branch of the legislature* for the removal of the offender.

The executive has not even deigned to *make any communication in reply*. He has assigned no reasons for his neglect, or omission of duty, and on this, as on many similar addresses for the removal of justices of the peace, against whom enquiries had been instituted in consequence of petitions from various parts of the state, we remain wholly uninformed, and the people who petitioned, unredressed."

What the quo animo, or "spirit" with which the Judge addressed the house, we will not undertake to examine, because it is not necessary for the justification of the Governor: or whether it invaded the "rights and privileges of the house," with *premeditated insult;* or, whether this was a construction which originated in a *spirit* of jealousy to the profession of the law, and the courts of justice. But we undertake to say in opposition to the addressers that the judge was not placed within the constitutional reach of the Governor; for the address was not by two thirds of *each branch;* unless a *quorum* is made to mean a *branch.* But, as to the respect due to the houses by the Governor in communicating his reasons for not removing, it is to be observed that he could not take notice of it to the houses by whom the address for removal was presented; for there was not a reasonable time before the rising of the Legislature. It was presented, as appears by the journals, in the afternoon of the second of April, and the Legislature rose on the third. He had time to read it; but not to consider it. *The dignity of the body politic forbade an inconsiderate reply.* He could not take notice of it to the subsequent sessions, because in contemplation of law they were a new body, and could be supposed to know nothing of what had passed from a *pre-existent entity.* It remained with the new body, if it chose to make the thing its own, to take notice of it. But in the opinion of the more moderate, enough had been done; perhaps more than was justifiable. It was concluded to pass it over and to say nothing about it.

The only way the Governor could with propriety, have taken notice of the address, was *by proclamation;* for it was upon the people whose sovereignty was supposed to have been violated, that *he was thrown*, and not upon the succeeding houses to whom there was no reference. But by *proclamation*, or even message to the subsequent sessions, he could not in justice to the judge take notice of it and assign his reasons for not removing without touching on those which would weigh with him on the ground of *discretion* in exercising a constitutional power of removal, supposing two thirds of *each branch* to have reduced him to this: which would unavoidly have led him to speak, if not of the misconception, and misconstruction of the judge's letter, which was the ground of the address, yet of the regularity of the proceeding without *enquiry, or hearing*, and with so harsh a sentence; all which, out of delicacy to the

houses, he was willing to avoid; so that in fact the silence of the Governor furnishes a proof of his respect for the Representatives, and unwillingness to dissent in opinion from the propriety of what they had done.

But the addressers go on; "we have seen him (the Governor) employing the *whole weight of his opinion, and the influence of the officers of his appointments* besides an interference with private citizens to procure the extrication of three judges of the Supreme Court from an impeachment who had, under colour of the common law, exercised the most daring tyranny, and violated the constitution, and laws of this state."

The addressers were at the seat of government, and members of the public bodies by whom the impeachment was prefered; or by whom it was to be tried, and had an opportunity of seeing this if it did take place, and we have their words for it, that they did see it; and we shall not question it; though some may have their doubts notwithstanding the solemnity of the averment. But it will involve this, that if the Governor influenced the senatorial judges who joined in *the acquittal*, they must *have been influenced*, and this is not saying much for the eleven, a number of whom had joined in the address for the removal of the other judge. But, whether the judges were impeached on good grounds, or ought to have been acquitted we say nothing. And even in our thoughts we have only this to think, that it may be made a question, considering the frailty of our nature, whether the proceeding against them may not have been in that *spirit of hostility* to our jurisprudence and courts of justice which have distinguished the time, and which may have formed a biass on the minds of the addressers imperceptible to themselves.

But, in a conversation with two or more of the members, speaking of the memorial for calling a Convention, he called it a "*base libel* and the authours, liars, rascals and villains, and the supporters of the measure, a set of geese, ignoramuses, scoundrels, and *ignorant clodhoppers;* and *that they should not have a convention.*" I think this is a set off against "Traitors, tories, refugees, and apostate whigs," and those so denominated may forgive the Governor, for he has paid off his late friends, in the like coin. But the addressers have him between two fires, on the score of intemperance of expression. But, we have made his apology in the former case, and we will endeavour to say a little in the present. I will admit that the

alledged expressions were not consistent with his usual guard upon his language, and I will not justify the *speaking* them; But I will not say that he might not with great propriety have *thought* them. For my inidgnation was as strong as his at what I will *call the conspiracy against the constitution.* For it is believed that the memorial was not the result of popular impression, but originating with *members themselves*, and the subscriptions procured by their agency. I will not say that this was a violation of their oaths, or carried *treason* with it. But this I will say, that it was of dangerous and inexpedient tendency. It is not clear to me in what it might have involved the government. But this is clear that it is at all times dangerous to effect a change by surprize and stratagem; and it would seem that the attempt in the present instance looked something like *stealing a march upon the constitution.* If it was not a violation of oath cognizable by the laws, it bordered closely on it and might be a case of conscience. I do not wonder at the alarm of the Governor, and at the strong sallies of his resentment, and the language of disdain which he used on the occasion. But less do I question, but rather approve his declaration of his endeavour *that they should not accomplish their purpose.* It was a monstrous proceeding and fraught with the most destructive consequences. There were two ways that a man could express himself on the occasion, and this would depend upon the frame of mind: either in temporal language, and the phrase of strong passion, denouncing the crime, and contemning the ignorance; or scriptural, adopting the stile of the divine personage, "Lord forgive them; for they know not what they do."

Particular stress is laid by the journalists who remark upon the language of the Governor upon the term *clodhopper.* It is, that this will carry with it the idea of disrespect for the agricultural occupation, and draw the resentment of that part of the community. We all know there is such a thing as thought at the plough, as well as the want of it, and the man between the handles may be a weak man, as well as him that is up to his arms in a pulpit; or, who rises to address us, and holds out his arms at the bar. The clergyman we call a mar-text, the lawyer a blunderbuss, and the unthinking ploughman a clodhopper; that is as much as to say, he hops clods, or hops over clods. Now there is no harm in the thing itself, but as it is taken, or as it is intended. Certain it is, that, at the plough as well as

at other occupations, there is a deficiency of brain occasionally. It is not every one into whose consideration it has ever come why it is that a furrow is best turned up in a right line, or in a semicircle; or why the mould board with us is upon the right, and not as in some countries, upon the left side; or why we do not with our British ancestors in the time of Julius Cæsar, or with the wild Irish at the present day, attach the traces to the necks and not to the heels of our horses. There are those who do not *think*. These we call clodhoppers. They call themselves by that appellation. The young woman calls the swain whom she affects to slight a clodhopper; and when an honest man sets up for a public body, who is supposed not to be fit for it; or, whose pretensions a competitor is disposed to undervalue, he calls him a clodhopper. It is not the employment; but the analogy that is in view. The Governor, if he used the phrase, would seem to have caught it as we do a great portion of that speech which we acquire, without the labour, or the merit of application, or intense study. The one half of our education is from our associations. He must have caught the phrase from the members themselves. But whether he caught it, or used it, it is disingenuous, to make this use of it as if the language had carried with it disrespect to the *farmers* of the country. There is a meanness in it unworthy of republicans; to run away to the sovereign people with a tale of words spoken. There is a great deal of this with other potentates. It is a sure means to sap, and undermine, and displace from office when the sovereign is a weak person. It is immaterial what the abilities, what the fidelity, of the statesman, "*he has spoken disrespectful words of your majesty.*" And though the sovereign people consisting of many heads, and these not crowned, may be supposed to be less liable to such impressions, yet such play upon pride, has been known in this state: we have a case in point, as the lawyers say, in the history of the great Franklin, when he represented the then province, in the legislature; speaking of the signers of a certain memorial and petition to the house, he was made to call them "*German boors that did not know what they were about.*" It was unfortunate also that the word boors was translated to them to mean *boars*, and it became the clodhopper word of the occasion. But the people of the present day, are more aware of the arts of election-mongers, and are not so liable to be led away by the *catch-words* of the designing. The backs of all are not up at the use of the word *clodhopper*.

It is observable that men in rule and authority among the Jews, were no slouches at blaming the multitude, for the evil of their doings, or the tendency of their ways. Moses calls the Israelites, not just clodhoppers; for they were in the wilderness at that time, and had no clods to turn up, or to hop over; it was a sandy country, or a soil of stones. Arabia petrea, and Arabia deserta are neither of a good arable soil; but he attacks them on the score of their perverseness, and calls them "a stiff necked generation." The prophets after him take the like liberties with the generations with whom they have to do; and if they do not alledge perverseness, they pay them pretty well off on the score of understanding. "No doubt ye are the people, and wisdom will die with you." A cutting and ironical commendation. But the prophet says, "My people Israel are destroyed for lack of knowledge." Expressions that go farther, are to be found in the Scripture; Zophar the Namathite speaking of human nature in its uncultivated state, tells us, that "man is born like a wild asses colt."

Our clergymen take no small liberties with their flocks charging them with the want of understanding. But what man is offended with the pastor when he knows that all this springs from a concern for his edification. In truth, we excuse a man in common life, who has really our good at heart, and from an anxiety to promote it, suffers his passions to be excited, and chides us for our inattention to it, or our mistake of it ourselves: we bear from such a one with good will, what we would not pocket from another.

The Governor came into office doubtless with affection for the interests of the commonwealth; and particularly in the administration of justice. He had been upon the bench of the state, a space bordering on the fourth of a century. It was reasonable to suppose that he had some knowledge of its jurisprudence. In fact, owing to circumstances, it might be said that for several years, at an early period of our revolution, the decisions of the Supreme Court were those of the Chief Justice, and though with associates, yet in fact was alone on questions of legal difficulty, and erudition: at the same time was assisting to the legislative body by his legal knowledge and political experience. The present Constitution was framed with his assistance, which may have added to his predilection for it, on the common principle of parental affection. It is a felicity in our nature, that we associate our affections with the work of our

own hands. Let a man plant a tree upon the grounds of another, and he will look upon the soil itself with predilection. What wonder that with attachment on this and other grounds, for the Constitution he took a strong interest in its preservation, and against what he thought to be, and would seem to others to have been an insidious attempt to destroy it, he denounced the conspiracy, and was ready to exhaust all the language of an honest indignation against the promoters of it?

But has Thomas M'Kean really taken this interest in the happiness of the Commonwealth? Let us see what he has done for the *Clodhoppers*.

Is it nothing to have introduced honesty, into *ministerial offices?* I will not say *restored;* because before his agency it never was in it universally. On the contrary it was abundantly defective. What was the department of the *deputy surveyor?* A scene of fraud and favouritism through the greater part of the state. Could an honest Clodhopper get a tract of land surveyed in many cases, without delay, in making the survey; without fraud in the return, unless he was in with the deputy. And did it not require, oftentimes, a corner of the land, or a lump of money to accomplish this. The surveyor general had the superintendance; but the surveyor general had not a Governor M'Kean to appoint him, nor to look after him when he was appointed. Have not frauds, or incapacity, or inattention, or all these in the land-office, been the cause of deplorable distress, and insecurity of title from a very early period in this Commonwealth. The thing could not be cured, but by beginning at the bottom. Are there any complaints now? Where is the tear of the Clodhopper? It is dried up; for he begins to think that there is such a thing as geting a clod to hop over. He is not afraid that his land will be taken from him by a catch of the deputy surveyor.

Was the prothonotary or clerks department before Governor M'Kean, just such as it has been since. Was there not in many counties, especially to the westward, a good deal of speculation with the sheriffs and deputy sheriffs of the county? Was a sale of land unaffected with it? Many a heart-rending look have I seen from the Clodhopper knowing himself a prey to unfair combinations.

Is there any peculation and embezzlement of public money now in the hands of officers, from the quarter session clerk that collects the fines, and licence money, up to the comptroller

of the commonwealth. I take it the *rights* of the clodhoppers are well secured though the *understandings of some of them may be undervalued.*

Do we hear any thing of the *insolvency* of sheriffs, or sheriffs securities since M'Kean came into office? It is a great thing to have a man at the head that is neither a speculator himself, nor will create it by a loose hand over others. It has been the glory of Pennsylvania to have had such a man even for six years, who has given a spring to integrity in the ministerial department. Whether we shall have him for three years more or by our removal of him, discourage such virtue in a successor, will remain with the *clodhoppers.*

But the grounds of dissatisfaction on the part of the addressers, are principally his opposition to *the voice of the people, in his legislative capacity.* Through whom is the voice of the people legitimately known *immediately*? only through the Governor. For he alone is chosen by the whole people. And this is the great glory of our constitution that the whole executive authority emanates *immediately* from the whole body of the people, and who, through this organ, at the same time, have an *immediate* though *qualified* volition in the legislative capacity. It is this and the principle of universal suffrage, that renders our constitution as perfectly *democratic* as the nature of a government, by representation, will admit.

Through the Governor every taxable is actually represented; but through the county delegate *virtually*, and in contemplation of law only. Is the fraction of a county represented at all but through the Governor? It is but through him that it can be represented equally. It is not possible to have it otherwise while the representation is by districts. And is it practicable to elect in all cases by a general state ticket?

But change the state representative, and let what would seem to be the will of the *county delegates* prevail. This is all fair. Bringing it to the test at once. The only question now will be, are *the people sure that the county delegates understand their true interest, and are right?*

The jurisdiction of the justice of the peace, was the first ground of difference. The will of the county delegates prevailed by the constitutional number of *two thirds of each house:* was it desirable that in such an encroachment, not to say trespass. on the jury trial, the experiment of expediency should be made by less than two thirds?

But the existing ground of difference, is the taking away at the will of either party, plaintiff or defendant, the trial by jury, in the first instance, in the courts of justice, *by a reference to arbitration.* May it not be advisable in the people to leave this as their state representative has done to two thirds of the county delegates of each house—Think of this good people and determine. It is the weightiest question you have ever had to determine in the history of your jurisprudence. The question is just this, *will you seperate the trial of fact from the knowledge of the law*, at the will of either party, and without the consent of the other? For this is what follows from a separation of the court and jury in the trial, and this separation puts asunder what a special providence would seem to have joined together. Let the expediency of such a change in our jurisprudence be fairly canvassed, and brought to the judgement of the people. But it will be said you cannot judge but by the experiment. But two thirds of the county delegates can give you that experiment. With fewer you ought not to ask it. For your state delegate is of opinion that it would be pernicious, and you are not sure but that he is in the right. You admit his experience and opportunity of judging wisely on this subject; but it is alledged that he is under prejudice in favour of a profession. It is true that *blind arbitrament* out of court in the first instance would abridge the province of law counsel; but are the parties on a footing to manage for themselves; and will there not be a necessity for advocates and managers of some sort? Law and counsel set aside, yet there must be advocates of some description, or managers on the part of plaintiff or defendant. Whether decisions without regard to *general law of property*, would give satisfaction; and whether the squad of arbitration agents that must attend the county towns, would be a preferable body of attornies, is the problem to be solved in this case. It would not require much education, and no study to qualify for such profession; But if the people will have it let two thirds take it; but let there be that proportion in the community who are willing to venture on this unhingement of the present mode of trial, and let this shew itself in two thirds of the county delegates. For a majority less than this without the voice of the state representative would leave the minority without consent; and in a change which no mortal could have contemplated, at the foundation of our institutions, it would be but reasonable that an adoption of it should depend on a proportion of more than a majority. It

would not seem to me that the innovation is so clear in its expediency that it ought to change the state representative, and introduce a successor who would give it scope with the aid of a majority. For, if the state representative is changed upon this ground, it is a clear indicament, and will operate as an instruction to his successor, that the experiment is to be put in practice.

But it is notorious that this *innovation* has been the ground of contention between the state representative, and the county delegates from an early period of his administration. His opposition to the project was well known previous to his late election; and did not his re-election operate as an approbation of that resistance? It may be said it was not so intended by all that voted for him. But had he not a right, *was he not bound to consider it as an approbation;* or rather was he not bound to consider it as an instruction to him to persist? It will be said this is putting it upon a point of implication. But can he in fact do otherwise than take it as your voice? What answer could he make if you were to pinch him upon this point? What has he to do with the voice of the Octorara-hill, or Tuscarora Valley, or any other local delegate; it is your voice that is to be regarded by him; your voice rising in your majesty, and speaking to him by your votes on a general election. You will say, "we will shew our will now, and are not bound by any implication, even upon this point, from our votes at a former election." I will grant it. You are not bound absolutely; but there is great respect to be paid to this consideration; *not to mislead and deceive a representative by even an implied expression of your approbation.*

The addressers refer to the Governor's idea of the *authoritative power* of the *Supreme Court* to decide on the constitutionality of a law, as a *dangerous and alarming tenet.* There are certainly grounds for the idea of this power in the court. It is only through this court who are commissioned not *immediately*, but by the *immediate delegate* of the whole people, and so are secondary agents, that the whole people have a secondary guard upon the Constitution. But if this power is not to be exercised by the court, there is the greater need of the *qualified* negative of the state delegate, immediately and actually chosen by the whole people, to resist the volitions of the county delegates, and to save the state from the errors, or partial interests, projects and speculations of *local representatives.*

This qualified negative the governor would seem to have exercised with a *noble firmness* where it clearly appeared to him that *the Constitution was in danger;* but in cases where it has been a question of expediency only, he has shewn a disposition to conciliate by suspending the exercise, and letting the law pass into existence though he could not give it the sanction of his approbation. And yet this suffering an act "*to become a law without his consent, by keeping it beyond the time limited by the Constitution,*" is introduced by the addressers, it is not said to establish what, but the presumption is, that in their opinion it must operate someway to his disadvantage. The fact is, the state representative has conceded as much as was possible to the county delegates, and endeavoured to avoid schism. But no fault could have been found with an appeal to the *whole people* if their address had confined itself to cases where the state representative had exercised his negative, or to *official communications.* But I cannot say that otherwise it is an equal or fair case; for, though he might comprehend them all in one in a counter address to their constituents on his part, and in this respect, the labour might be equal, yet the procuring and *attaching certificates* of rudeness, censure, and extra official conversations, on the part of members, might not be equal; and after all the people would tell them that it was not their private differences they respected, but the performance of their public duty.

But let us give a short examination of this arbitration project though we cannot undertake to develope all the imperfections which it contains, and the mischiefs to which it leads. It is called an *innovation.* It is so as to what now is; but not as *to what has been.* It is a veteration, if I might coin a word. It is a retrograde manoeuvre; and the laying aside improvements to go back where we began. Has there been no experience of trying matters between man and man, by men of the same education, situation, and occupation with themselves? Abundant experience. There was no other way for a long time. For, tracing the history of jury trial, it appears that though the *vicinage*, or neighbourhood examined and settled all controversies; yet the man who kept order; for, (from the very jump, if I may so express it) a person to keep order was found necessary; I say, the man who kept order, (who was called the foreman, and made the thirteenth man,) knew no more of the law than the others: nor was it necessary, when the laws were nothing more than customs, and like the laws of a game at school, in every

one's knowledge. Such was the case in an early stage of society, when the soil was occupied, not owned, and personal property confined to household goods, and housed cattle. We retain the words at this day, "*goods and chattels.*" But when every cultivator had his own soil by metes and bounds, and held by rights handed down to him, or transfered to him, and when personal property became valuable, and passed by document, and when laws of tenure, and compact, from these sources had mad a body of rules and regulations that could not be kept in the head, but called for the help of books, then it began to be found that law heads were necessary to assist the plain men, and to fill the place of the president, or foreman, who had been accustomed to keep order in their otherwise disorderly tribunals; and hence what are called Judges.

The law of evidence is *the gathering of experience.* This consists of rules for the investigation of truth. If they do not favour the discovery, all that can be said, is, that there has been a great mistake in the ages of jury trials that have gone before us. Doubtless at first they heard the parties themselves, and witnesses with interest, or without, and original and hearsay testimony; and after the parties had *closed their testimony*, suffered them to begin again. But experience taught the defect of this, and introduced gradually a remedy, and rejected or changed as judgement directed.

The whole practice of the court is the product of experience, in the same manner as the rules of a legislative body; but more complicated as the objects are diversified. Precision and certainty in the demand of the party; correspondence in the answer; sticking to the point in the progress of the replies and rejoinders: restricting the evidence to the ground of the dispute; all this is for the sake of getting at justice and avoiding delay.

The parties themselves at first were heard only in their proper persons; but the inequality of this began to be felt as soon as the progress of society began to make a difference in the wealth and education of men; the first gave influence; the second talents. It began to be felt also, in proportion as customs and statutes began to be multiplied, and it required study to know them, and labour to bring them forward. Hence the use of counsel, and advocates. They have had their origin in necessity; and they will remain necessary as long as property is a creature of the laws, and all men not equally capable to assert their claims.

But the *arbitrament* proposed, is only in the first instance—An appeal is given to a court and jury. It is true that a proportion of the cases heard will never undergo an appeal. But in most cases for what reason? Because the poorer man cannot afford to appeal, even where he thinks he has the law on his side; the rich man will appeal perhaps when he knows he has the law against him. Passion and pride, will prompt him to it, and money will support him in it.

The selecting men of the *vicinage* by an indifferent agent; the securing them from the impressions of others until they have decided; all these principles and precautions are the result of experience; and the question is, shall we go back to where we were without them, *and experience the necessity of them over again?* But if the trial by jury that we have heard so much about, is to be broken in upon, and *abridged* in what have been deemed its excellencies, let it be by two thirds of the county delegates, and let the trial stand as it is until *two thirds are agreed.*

The thing is not capable of arithmetical enumeration, or being determined as we ascertain weights or measures; and it may be that the Governor errs in his judgement upon this point of legislation, and exercises his negative injudiciously; but it is of importance not to run down the exercise of it. There may be a stronger occasion for it, and in which the *addressers* might wish to see it exercised, when the county delegates may be less informed, and when they themselves are not of the legislative body. The waggon wheel of government requires to be locked, as well as the waggon backed by the horses, when the hill is steep and the load heavy. The county delegates, at least the addressers, seem to take it hard, and think themselves wronged in this, that the state representative has an opinion. Does it not look like running down his negative and absorbing all power in themselves? Surely no man can doubt but that the state representative is as anxious as they can be to advance the administration of justice. But the jealousy on their part is, that he wishes to shape it to *serve lawyers.* I answer this by a maxim as true as any problem in Euclid, though not equally capable of demonstration; *that whatever serves liberty, serves lawyers.* The lawyer is as naturally the attendant of liberty as the soldier is of despotic power. For the laws cannot be understood and applied without persons to study them; and liberty is the offspring of laws. This observation is as old as Cicero; but the truth of it was felt long before him: "Law is the foundation of

liberty." The great thing is to cultivate a good breed of them; enlightened and upright lawyers. What is the secret of this? 1, *able judges of law;* so that a lawyer must look to his proficiency in this for eminence in his profession. 2. A reasonable independence of situation in the judge, that he may know no man in judgement, and impress council with this that the law is to prevail. 3. Such an administration of justice as will make the law the guide, and exclude all other means of success in a cause. Under this I comprehend the safe custody of a cause in court from its commencement until its determination, free from the labouring of officious or interested persons; subject only to the consent of *both parties to a hearing out of doors.* This takes away the compulsory arbitrament *at the pleasure of either.*

An administration of justice by men ignorant of law, produces timidity in them; gives rise to illiberal, and endures dishonest practice in the profession. This aided by the incompetency of prothonotaries; or collusion with sheriffs, and their deputies, invites and supports craft, and that species of talent that is not derived from books, or a good education. Muddy waters produce ignoble fish; the trout, and the salmon love the clear stream; so that Governor M'Kean looks to an administration of justice in his idea of improving *the judicial system,* that would give able judges, and a competent number of them, which would in fact lessen controversy by the greater certainty of law, and dispatch of trial, and would, at the same time reduce the number, but increase the talents, and the reputation of the lawyers.

Having thus, with candour if not with ability, made some observations on *the address* of the members of Assembly at Lancaster, and endeavoured to raise a Standard for the Governor; I go on to advance it in favour of the *Constitution.*

I am an advocate for the principle of universal suffrage; for I can see no consistency in any limitation, but what is personal and respects age, and residence. But this *delightful* principle of equality cannot be tolerated without endangering liberty, unless the stays or restraints upon public volition are proportionably powerful; for, the mind of man like the water of the ocean, is subject to sudden, and great agitation. The breath of opinion like the atmosphere, blows upon it, not with an equable and steady breeze but, in flaws, and strong winds. In proportion as the whole mass is acted on, and can be put in

motion, the waves are the more tremendous. The stays, or restraints are

1. The acting by representation; for, even in a small state, where the whole can convene, this is found a great help and contributes to the wisdom of deliberation. For though "in a multitude of counsellors there is safety," yet this is not in the ratio of the number of heads, that consult, but of the number out of which to select, and which gives the greater chance of selecting men of understanding.

2. The division of power in the representation; the law-making, the law-expounding, and the law executing power. This we have under our Constitution, in the legislative bodies, the judiciary, and the Governor.

3. The subdivison of the law-making power, immediately emanating from the whole, and a representation emanating from the parts. This we have in the qualified negative of the Governor, and in the district delegates.

4. A subdivision of the representation from the parts, in order to produce deliberation, and obstruct combination: and, under this subdivision, a shorter period of revocation in one body with a view to secure fidelity to the voice of the constituent; in the other a longer period, in order to lessen fear in the delegate of acting according to his own judgment in opposition to temporary impulse, and popular paroxism: this we have in the two branches, the annual branch, and the quadrennial senate.

I am not about to write a comment on our constitution; but it will be seen that it possesses all these restraints and stays; and venture to assert that with the principle of *universal suffrage*, its date would be short without them. For even where a qualification of property is introduced as a stay, and citizens of a certain real estate only have the rights of suffrage, yet a Government founded on opinion, is subject to internal commotion, and is with great difficulty preserved in a state of freedom: It tends to anarchy or monarchy with alternate heel until it goes down in despotism.

Our executive springs wholly from the stock; it rises on the basis of the whole people. *Universal suffrage* raises it; and in this respect our government is as democratic as is possible short of the people exercising the executive power immediately by themselves which in a great community is impracticable. Nevertheless we have seen a struggle to break in upon this part

of our constitution by the local delegates, by taking away the appointment of officers *from the people* through the state representative, and exercising it themselves: I respect particularly the late case of the comptroller general.

The third and intermediate, the law expounding power, is but one remove from the immediate appointment of the whole people, and to a qualified extent, is in the power of the parts in the legislative body.

All this distribution is the result of much thought and long experience in the affairs of men. Our constitution has been framed with great deliberation, but in the opinion of all does not work well. But it has not had time yet to do itself justice; give it fair play; and an opportunity to shew itself in a series of experiments. What has been called the *Spartan band*, has been spoken of, the majority of the senate who on the eve of a political revolution made a stand. But did not that shew the *strength of the stay?* And supposing it to have served then to resist what was right, there may be use for it at another time to resist what is wrong.

The tenure of judicial office has been a subject of complaint. The stay here may at the present time support men who ought to be displaced, but there may be occasion for it when the attempt may be to bear down, and remove those who ought not to be displaced. The constitution is not made for a day. But the will of the people ought at all times to have effect. But the thing is to get at the will of the people; and even if they could assemble as one man to express their will there is such a thing as rashness in a multitude. They would find it necessary to restrain themselves by taking time to deliberate. Perhaps to provide that in the case of those who administer their laws which subjects to much odium; and requires proportionable fortitude, it should be necessary that in the case of a change *two thirds among themselves should be agreed.*

It will be said this is a new idea that the Governor is the immediate and only immediate representative of the people. Is it not the fact? I can perceive that there is a mistake on this head. The addressers talk of their addresses to the Governor in the case of the judges and justices *as petitions from the people who are unredressed.* But they are not the people, in the same immediate, and complete existence with the Governor. This shews that they have not even given themselves time to understand the Constitution, and how should many others less in-

formed who are willing to object to it? The local delegate is the actual representative of a district, and it is in contemplation of law only that he is the representative of the state. He is chosen annually, because it can conveniently be done. The Governor is chosen with the solemnity of a triennial, and general election. He is a representative elected with more concern, and is of longer duration. Ephemeral productions in nature, are less the objects of attention, than those which are of more importance in the scale of being, and of greater longevity. Not that I mean to undervalue the local delegate, and virtual representative. He may be in fact the far superior personage; but it is in a political point of view, and representative capacity, that I consider the characters. But, in proportion as a man is removed from local interests, his horizon is enlarged, and his mind embraces the interests of the whole community. The local delegate is charged with the accomplishment of local objects, and for these he is under the necessity oftentimes of bartering his vote upon a general question. At all events he is under the temptation of doing it. The general representative is charged with the interests of the whole, and has no local objects to accomplish. In this particular alone independent of all others, the Constitution presents a noble scheme of wisdom, and democratic equality.

It is contemplated in the nature of the case that an opposition of sentiments will arise between the local delegate and the general representative. As is natural to the human mind it may come to warmth, and mutual accusations of a mistake of the true interests of the people. Even a contempt may be alledged and contumelious expressions adduced as a proof of it. But it is to the conduct that a wise people will look for the proof of this. Does the man slight their interests by neglecting his duty? This will be the subject of enquiry with rational men, who reject the address, when it is to their passions, and not to their understandings. Nay, when the recurrence is to this it is a presumption that passion prompts the movers more than reason, or that self-love in some shape is at the bottom.

Certain it is, that the whole body politic have not the means of information upon a great scale. It is in contemplation of law only that they are supposed to be infallible, and whatever the people do is right. Individuals in their respective occupations have not the leisure nor the opportunity to investigate great questions. It is the part of a faithful representative *to respect the rights, but to distrust the impulses of the people.*

But there are ingenious men who wish to try their hands at making a constitution. But the passion of constitution-making will not be satisfied with one essay. Hence it is that no constitution will be lasting; there is such a thing as a habit of instability. A bone that is often out of joint is not easily retained in the socket. A free constitution will at last be lost. Good and wise men of Pennsylvania think of this.

It is an axiom that the people have a right to change their constitution; & a *majority* constitutes the people; and the *motion* towards a change must begin somewhere. Hence *the right* of any individual to propose a change. An oath to support the constitution is subject to the exercise of this right. But though the *vote of a majority* gives the right to change, yet it supposes *the vote of every one to be taken;* and therefore any attempt to change without having taken the *previous* question, convention or no convention, must be contrary to oath and right both. The existing legislature for the time being would seem to be the most expedient organ of communication with respect to this object, who, by way of *resolution*, not law, for they have no authority, could *fix upon* the ways and means of taking the sense of the people, and this ought to be by a universal vote of the citizens qualified to vote, and not, by proposing the choice of representatives in a convention without a vote by the whole people on the *previous question.* Where the sense of the necessity of a change pervades the whole community, it may not be attended at the time with an immediate convulsion? but where that is not the case, *it may produce a civil war.* For the man who from a surprize upon him, and exclusion in fact, by defect of ways and means of giving him an opportunity to make his will known, is not bound by what is done, and may resist, and it will depend upon the event whether it shall be stiled a *rebellion, or a revolution.* The taking the sense of the people therefore by the signatures, sent forward to the house, is not fair, or safe, and ought not to produce more that the devising ways and means as I have said, to take the sense of the people. For can the executive authority do less than to issue his proclamation against a convention on any other ground, and in case of its taking place, calling on the civil authority and militia *to suppress the insurrection.* It would be his duty, and on his oath he could not dispense with it; and if in this respect he is not vigilant, our established governments and liberty will be of short duration. It was the duty therefore of the Governor in the case

of the late attempt to call a convention without taking the sense of the *whole people, to give it to* be understood in plain terms, *that he would oppose it.* The members might not intend, "treasons, stratagems, or spoils," but the proceeding might have led to it.

All the greatness of man is derived from his gregarious nature, his love of association; yet of all things how difficult to retain him under any form of government but that which of all others is the least favourable to his happiness, and the great improvement of his nature. Tyranny in some shape, he will have. It is that which he constantly exclaims against; and most of all hates, and fears, and yet as if under the dominion of witchcraft, he will run into his embraces. This mighty giant, this monster feeds on human flesh; and yet in vain you warn against the approaches to his den. I see him now, if I can guess by the descriptions that all ages have given of him. He is stalking at a distance, but spreading his sorceries. We will suppose that a revolution is brought about, and a new constitution is formed, with all peace and quietness. This constitution must want the stays, the braces of the present; because these very stays, or braces are the impediments of which complaint is made, and which has brought about the revolution. Will not that occur which has always occurred, that the many first, the few next, but in a short time the one will govern? Is the nature of man changed? Is our air less elastic; or is there a spirit in the atmosphere less favourable to discord, that we should trust ourselves more than experience has shewn it behoved, where man has planted himself in all other climates and countries?

In this very commotion that is now stirred, how many were concerned at the commencement? Examine the list of the members of the house of delegates; for it began there. What names can you point out whom you will suppose to have been consulted in the formation of the project? It is notorious that it was the work of but a portion of the delegates. I do not mean to say that it is the worse for this; but to shew how easily revolutions are brought about. It requires only to begin, and the thing will execute itself.

It is not the boy that applies the flambeau that causes that mighty burning. The inflammable materials of the city supply food. It is in the veins of the timber that the latent sparks are found; that the flames are engendered, and burst out. It re-

quires no talents to set a town on fire. It is the work of audacity alone.

Whence is it that some men have become great upon the earth? Some by forming establishments, and doing good; others by the greatness of the mischief they have accomplished. Rarely do even the actors find their account in what is done. Ingratitude is in the way of the good man, and is the reward of all his labours. Vain glory, or the love of spoil prompts the bad, but it is in the nature of things that his own mind torments at the present, and the revenge, and execration of mankind pursues him at the last.

You will not understand me that I think there is an individual of the addressers, who either means, or will come to act a part in the overthrow of liberty, otherways than by saping its foundations. The want of discernment may produce the same effects, with design. Who did not foresee every fortune of the French revolution, long before it came to pass? From the moment the national assembly conspired against the constitution of 89, I gave the matter up. I saw they were diging the grave of liberty.

We may get a constitution, that may be suffered to live a few years; But I give up all expectation; I lose all hopes of longevity to our establishments. Our ephemeral productions will have a short date, and will finally settle in civil wars, and despotism.

I wonder the general government is not alarmed: is not the next house on fire? Nay more, the flame is in an under story of the same building. This vast pile of the confederacy is not far from being burnt down.

Far am I from attributing this to the design of any man. It is the consequence, not the intention which I denounce. But the like inimical torch that is now applied to the state fabric will admove itself, and catch upon the buildings that are adjoining; the strong breath of opinion that is now blowing will drive it upon its neighbours; and hostility to laws and the equipoise of government, will consume all before it.

It is, perhaps, not an unhappy temper of mind, to be able to accommodate itself to whatever happens; but it is a temper that must be possessed by nature. It cannot be easily acquired. Philosophy in vain preaches to the anxious mind, resignation and contented acquiescence under all circumstances. It is painful to him that has taken pains to set matters right, to see

them go wrong. In this point of view, it is, perhaps, an unhappiness, to possess what is called public spirit, as it enlarges the sphere of our concerns, and as disappointment in seeing the state thrive affects in the same manner, as seeing one's own affairs go to ruin.

We have made a noble step in improvement since the adoption of the Federal Constitution, and the Constitution of the State. The country is becoming like a garden. We have roads and post-ways every where. But the sky begins to lour. Fourteen years of fair day, is perhaps as much as is allowed to the lot of man. We must submit to the nature of things. Our establishments are about to go the way of all the earth, and to find their decline, or overthrow, in the ambition and restlessness of men.

But I find it difficult to acquiesce with a saint-like resignation, under such a revolution of prosperity. I find myself prompted rather to address myself to all of a considerate and reflecting mind to urge them to be active, and to see whether we may not be able to avert so great a calamity. We have had heretofore the struggles of party, and the contest would seem to have been who should have the command of the state vessel. It is not a mere party matter now, or a contest for the possession of power; or a difference of opinion with regard to steering and navigation. The question is, shall we be able to save the ship? It is a question which interests all who are embarked in it; the mariner, the mate, the captain, and the owner. Is there any man so blind as not to see the importance of the crisis? Safety or shipwreck is carried in every word, that subserves the agitation, or is calculated to compose it. The schimatics have much to answer for, that have bred the disturbance. It behoves men to weigh well before they begin a revolution. It may terminate short of a civil war, with great discretion, and wise conduct; but a great deal is put to risk, and I can see nothing to be gained. Legislators have been at all times aware of the unstable disposition of the multitude, and the use that is made of it by ambitious men. Solon exacted an oath from the Athenians, not to change his laws, for at least a period. Lycurgus, of the Lacedemonians that they would preserve his system, until his return, determining previously never to return. The legislator of the Jews an inspired lawgiver, saw, in the nature of his people, the propensity to change. He denounced a thousand curses on those who should subvert his institutions.—

"Cursed let them be in their basket and cursed in their store." I will not curse the schismatiss of the day; but I mut arraign the wisdom, if not the integrity of their proceedings.

With whom did the schism take its rise? With them who stand by the old Governor, and the Constitution; or with them who have declared against him, and are labouring to subvert the great charter of our liberties? Who are the orthodox in the great principles of republican faith and good government? This charter is not the worse for being framed at a time when the democracy saw a union of all parties in framing it.

The present is a war of principles against innovation. What was the ground of opposition to the election of the present Governor. It was not so much on his account, as of a proportion of the persons by whom he was taken up, and who were supposed to have a leaning to wild principles of government; to what were called Jacobin notions of liberty. It was apprehended that he would be under the necessity of yielding or administering to the wild fire of those who had supported him. It would not be sufficient that he advanced to office, men of that description. He must assist, or at least give way to the madness of the multitude: this he has not done; and it is for this very reason that there is a combination against him. It is not the paultry pretence of incivility to members, or not appointing a justice of the peace, that is at the bottom of the conspiracy against him. It is the stand he has made for Liberty and the Constitution. Certain it is, that on his re-election depends the preservation of this noble piece of human mechanism; of political workmanship; this beautiful orrery, which it is delightful to contemplate. For it is undoubtedly the best scheme of government that has been ever put in practice; or perhaps devised by the wit of man.

——Nil oriturum alias, nil ortum
Tale————

Its fate however seems inwoven with the re-election of the Governor; and what is more, the fate of the general government. Let us therefore rally round the STANDARD OF M'KEAN AND THE CONSTITUTION.

IRONICAL REASONS

FOR A

NEW GOVERNOR, AND CONSTITUTION,

AND WAYS AND MEANS OF BRINGING IT ABOUT.

By DEMOCRITUS.

A good deal was gained in favour of just politics from the revolution of 1799, when the democratic party obtained the ascendant on the election of Governor M'Kean. But it was not to be expected that *one winnowing would clean the corn ;* or that the first run of democracy would stand proof like double distilled spirits. A leaven of Federalism has been found with many in a hankering after laws and government. They assisted in fanning the flame of liberty, and now when the fire is kindled, they treat it as they would that irrational element in the natural world; they express apprehensions that it will burn the house. We are to want a bonfire, forsooth, because they do not like to live out of doors. On the election of a new Governor, the reign of genuine democracy will commence; offices will be filled with men of principle, without regard to *talents*. Governor M'Kean answered the end of his creation in one respect, the displacing some, and putting in others; but has had some pricks of conscience, or punctilios of honour, in filling vacancies, in some instances, with persons that were fit for them. This is all short of a thorough reformation. I wish to see in all departments, men of fortitude and principle, that will know no man but of the party. It is hard that after all our struggles for liberty there should be no distinction of persons. What avails the getting the office to our side, if we do not get an officer along with it? A man that will go all lengths and stand by us to the minutest ramifications of our interest.

Thomas M'Kean begun well; and in his denounciation of "Traitors, Tories, Refugees, and Apostate Whigs," he spoke the sense of those to whom he owed his elevation; but in his first address to the Senate he qualified the expressions; or at least discovered that he was sensible the application ought not to have been so general. This did not augur well; but in receiving civilities from some of that party afterwards, he gave reason to apprehend that his resentment could give way to time, and apologies. He has been seen to return the salutation of several of the persons who were supposed to be designated under these denominations; and they in return have spoken of him as a *good magistrate.*

But all this might have been passed over, and forgiven, being mere matter of ceremony, provided he had shewn a democratic spirit in pressing the reform of government to things as well as men. But he has resisted the intemperance of the associate powers of government, under a pretence that the improvements which they meditated, were barred by the Constitution, or were *inexpedient.* It is true the Constitution gives him a qualified negative upon the acts of the associate powers of government, but was it ever contemplated that he would exercise it but upon extraordinary occasions?

——Nec de us intersit————

The time might come when the two houses not being of the same party politics with the Governor might justify his opposition to a law; but when the several branches of government are constituted of the same party, what necessity for a check? It is revolting against just principles; it is deserting the people. What is this qualified negative but a mere matter of state pageantry; and never intended for real use. But this is what comes of having men of talents to restrain the wishes of the people.

It is true the people may not always understand their real interest: but there is a pleasure in being gratified with an experiment which compensates for the inconveniency that afterwards arrises. Are the people to be kept like wards, or minors under tutelage, when they are of age, and their own masters? Governor M'Kean counted too much upon his age, and standing, and his good will for the people, and having their interest at heart. Human nature is so constituted that its happiness depends more upon having its will, than in being right in the choice of a proceeding. The paying attention to experience is

an aristocratic principle and checks improvement. Young hands in state affairs venture most, and sometimes succeed best. We are oppressed with the weight of 1776; and because a man has slept seven years with a halter about his neck, he must possess a right to dictate to people that have been born since, or are newly come into the country. He must expect to be excused in giving way to his passion when he sees things going wrong, and to blame measures as rash and dangerous. This is bringing back the patriarchal age upon us, and because a man is old he must take liberties; because he has a concern for our interest, he must chide us like young persons for deviating from what he thinks our duty.

I have no idea that there is any more use in a constitution than merely an outside row, or perifery of a circle; to bound authorities, when the wrong party gets the lead, or when uninformed men are our legislators. It is like a last to a shoe; which always admits the putting a slip of leather to alter the dimensions. Now a man that reads law, like a master mechanick thinks that all depends upon sticking to principle, and preserving the constitution; and that it is immaterial what constitution we have if we do not stick to it; for it will be giving all power for the time being to those that happen to be sent forward, and in that case it will happen once in a while that some may take a lead, and not be willing to come back. There is nothing more vexatious than to have a man in government that is tenacious of principle. It is for that reason I am against the reelection of Governor M'Kean.

Had it not been for him, what advances might we not have made, by this time, in the perfectibility of government? He has set himself like a strong man to oppose all our volitions. The spirit of the people will not easily be roused again: just on the turn of party ascendancy, before the passions have time to subside, it is then easiest to get rid of all incumbrance of precedent, and to take up matters on the ground of present conveniency, and eligibility and choice. But he has talked of constitution, and example, and future consequence until we are sick of him and the constitution both. He has an idea that at least *two thirds of the representative bodies ought to be agreed on the necessity of taking the previous question, whether a convention should be called.* This might give stability to the existing establishment, but more would be lost than gained; for there would be no opportunity of experiment. Are we to take lectures upon

practice, which is mere theory, and not rather by actually rejecting the constitution that we have, and building up a new one? Many hands make light work; we would be but a short time about it. There has been a great accession of projectors since the formation of the last. It is talked of putting off the making, or mending it, if some will chuse to have it so, until a season of more coolness and deliberation; but is there any time better than when there are so many idle persons that are willing to lend a hand, and have nothing else to do. They talk of a convulsion; of a civil war? Do we not let blood in common life with or without a malady? Are our posterity to have nothing to write about, as what has happened in our time? Are they to see no bayonets, or cannon-ball, turned up when they plough their fields but what the British have left here in the revolutionary contest?

What have we got by an election struggle, a number of us? There are no proscriptions as in other wars; no estates forfeited; none to be sold for a small matter; in fact for a song as in France. The rich keep their estates as in a time of peace and security. What is it to them to be kept out of representative bodies. They stay at home and mind their farms, or their occupations, and get richer, under all the reform we have brought about. Some of them go so far as to say they are not dissatisfied with the administration of M'Kean. Nor, is this to be wondered at; for his object is a stable government, and a settled order of things, which co-incides precisely with what they want. No wonder they are coming over to him, because he has gone over to them, or at least met them half-way. What use is there in a revolution unless there is something to be gained by people that do not like to work; and this is the case while the government remains in the hands of those who are opposed to an equable division of property, and to the taking what another has to spare, because he has more than enough. It is vexatious to a man, to see the community in peace. If there was even a bit of an enlistment for a campaign, it might give employment to unestated persons; who might have a prospect in participating in the plunder of a camp or city, as in old times, and in other countries where fortunes are made without the labour of the hand, unless just to stretch it out and take what is uppermost. They talk of moderation. Is it time to be moderate when we have the thing in our power; and when moderation, is of all things the most to be dreaded? After the overthrow of the fe-

deralists, we had the community within smaller bounds, under the denomination of republicans. It is high time that there should be another brewing, and none but *democratic* republicans retained. After this it is not to be doubted, but that the remainder must be farther sublimated, and a defecation even of the democratic republicans, made, and left behind. It is a work of labour, and what is worse, will require time. For Babylon was not built in a day. It is not all at once, that we can get to the true spirit of democracy. What we have amongst us, yet, must undergo another process. We have seen in France, that whatever numbers they had, and however rapidly they wrought, it was a length of time, and a work of several revolutions before they brought the fermentation to a proper height, and produced the real jacobinic stuff, that has made so much noise in Europe since. There is a squeamishness in our people yet, that must go off, before they can be said to have proper stomachs for a government witout moderation. Some who are with us in the proposed call of a convention, talk of stopping at a certain point. Can they stop a mountain falling from the clouds? I can perceive that there are many, who have yet a hankering after the flesh-pots of Egypt. But they will not be able to hinder the accomplishment of the prophecies; and I now prophecy, and verily I say unto you, the convention that is about to be called, will not stop, short of a total overthrow, of all principles of civil government. I will undertake to say from the spirit of the times, if it once gets fairly under way, in a convention, that those that are now thought violent men, will be denounced as aristocrats; and have as much to do to pass for republicans as those whom they now denounce as of third party politics. We saw it in France; but a philosopher would see in human nature, if there had been no French revolution to verify it.

In the times of our Saxon ancestors there was a beautiful simplicity in the administration of justice. The Wittena-Gemote, or Council of Wise men, was the same with our Assembly, without a Senate, and without a Governor. They had simply the appendage of a speaker. They judged causes themselves, and what were left unfinished, they put off to a committee in the recess of parliament. Why not bring the administration of justice amongst us back to the same state of judicial arrangement? There is but one objection that the state of society is not the same; but this objection is removeable, by reducing the state of society to what it then was; for I admit

that the one must go with the other. The laws must be simple for plain men to apply them; and as to lawyers there will be none; for there will be no need of them. The Saxon council of wise men adjudicated causes in their own persons, until business began to multiply upon their hands; in which case they devolved it, at the end of the session upon the prince, and in his turn, he laid it over to the officers of his household. These became tired of it when matters of intricacy, through the multiplicity of laws, began to grow upon them; and the judiciary officers of the several courts were established. This was thought to be a great point gained in the administration of justice; and, if it was now proposed that the members of our legislature should hold courts in their respectiv ecounties in the recess of the houses there might be some dissentients found among the people. They would be denounced as persons willing to rest short of a general reform; as half-way politicians. But at the present so wedded is the human mind to systems, that there are persons to be found otherwise of good sense, who think it might be stoping at too low a stage of improvement, to have the judges commissioned independent of the legislature but for that period. For such as wished an appointment must first get into the assembly, and those willing to supersede them, must get in after them.

It is not clear to me that it was matter of design, and forecast in our leaders in the two houses of the legislature to retain the administration of justice in a condition inadequate to the exigencies of the state, in order to disgust the people with the courts, and prepare the way for a new constitution. Because we are apt to see design where there is none, and to be overwise politicians. But it has happened well for this purpose, and subtil men are converting that which was their own act, into an argument against their adversaries. So much for ingenuity, or accident. Had the Governor carried his point, and the arrangements of the courts on his plan, there would have been nothing of this, to harp upon, and call in aid of a reform. It has been thought by some that it was a master-stroke of skill in our committee men in framing all their bills, to interlard something exceptionable in every one, which the governor could not pass, and by this means bring upon him the odium of rejecting the whole. But this might have happened opportunely without the forecast, or foresight of any one. Much less do I lay it down as certain that in projecting the settling up a new Go-

vernor, occasion was sought against the old, and that it was of design that his passions were excited, by the importunity of applicants for commissions, for themselves, or friends, so as to draw from him words of heat and vexation. Nor, in like manner, that the proposition of a convention, and the overthrow of all government, at a time when there was no call for it by a sense of grievances among the people, was matter of contrivance, with a view to irritate, though it looked like it; but this I will say, it was calculated to produce it. For we prick a lion to make him roar; and much teazing will make a bear growl; and no man can doubt but a proper use has been made of what has been extracted from his sense of pain on this occasion. For he was teazed greatly by application for offices, and much hurt by the proposition of destroying the fabrick of the constitution. But now he shall see it go down, and he may fret, and fume, and call us libellers, and liars; but, we will not leave one stone upon another before we have done with it. We will erect a building of simplicity in its place, with neither arches nor columns; nor according to the rules of architecture: but a plain structure to suit plain men, such as we can devise, without the aid of *lawyers, or men of science, or experience.*

AMICUS AMICORUM,

OR A

FRIEND OF THE FRIENDS OF THE PEOPLE,

AN ADDRESS

BY DEMOCRITUS.

Friends, and Fellow Citizens,

OBSERVING the good will which you manifest in advising the people, I have thought it hard that no one took upon him to advise you. For your liberality would seem to deserve it; and you may stand in need of it, being but fallible men, and of limited understanding. At the same time, it is giving the people a double security, to advise you, while you advise them. Nevertheless, I will not permit the question to be asked, how it comes that I take upon myself this capacity, which implies superior ability to direct; nor will you insist upon it; for, while you put this question to me, the people may put the like to you. It is sufficient that each of us have so good an opinion of ourselves, that we think we can instruct, and so much public spirit that we are willing to undertake it.

It would seem to me that you are in an error on one point, *with regard to* the importance which you seem to attach to the county or district delegate; or, to the congeries of them when assembled in their collective capacity. They are in contemplation of law the representatives of the whole state; but each of them chosen out of a part, and seldom known to any other. I have stated in my essay entitled *the Standard of Liberty*, my ideas on this head; but I would wish to notice to you that in fact it is not in the nature of things practicable to excite such attention in the case of the county or district delegate as will en-

sure the choice of the most worthy. It is a maxim of the law, (I do not say lawyers) that it does not concern itself about very small things. And even when there is a disposition to attend to an election in this case, it is often the work of an individual who wishes to be commissioner, or sheriff, and settles the ticket to suit this purpose: one is taken up in a corner to draw others. His understanding is not thought of, but his popularity alone. And even supposing him the ablest that can be found, what information can you expect him to possess on subjects of law and government. I will allow him all the integrity you can demand. But where is the presumption in favour of his understanding? I do not so much wonder at the errors he may commit on great questions, as that he is ever right at all.

When the representation is convened and the information of all is thrown into a common stock, it can respect only the subjects of their knowledge. Prudence and deliberation is useful, but it must be relative to what the members know. The expense of council is found a grievance, and there is a delay in the administration of justice. But, what can they do in this case? At least what ought they to do, *as in all other* cases, but consult those that understand the science? Has not the constitution given us a state representative, who ought to be, and actually is well acquainted with the science of the law and the administration of justice? Was it to be expected that in what related to an arrangement of a judicial system the county, or district delegate would be so confident as to call in question the propriety of his judgment exercised in the last resort? Who could have anticipated the arrogance of finding fault. *It is the whole people whose choice he is, that is insulted, not him alone.*

But is this principle of the constitution right? It is the glory of the government. There must be a power rising from the body of the whole people; otherwise the state is not one and indivisible; it is but a confederation of parts. There must be a power the raising of which is made an object of state concern and election. The community will not otherwise make the best use of the reason which nature has given them in a political capacity.

The circumstance of numbers gives confidence, but does it increase wisdom in the same ratio? It is not on this principle we act in other cases. We give the command of the ship to a navigator; an army to the experienced general; and yet the sailing on the ocean, or the conducting an army is of less diffi-

culty than managing the intricacies of law and government. Here we are not willing to submit with good will to the small matter of controul which is vested in our state representative. One would suppose that enough is left to the county and district delegates in the power to originate all laws, and to pass them by two thirds of a quorum of their houses. But to arrogate to themselves superior wisdom is going farther than is contemplated by the constitution, or is justified by the presumption on which this principle is founded. Yet this seems to be the great grievance of which complaint is made by the delegates, that they have been checked in their notions of what is expedient in the science of legislation. There would have been more reason for complaint on this head had it been a matter of a local nature on which this discrepancy took its rise; but the ground of difference is an amelioration of the judicial system which of all things he might be supposed to understand the best. For the whole of a long life, and with a strong mind as all allow, has been spent in the study of law, and the administration of justice.

Addressing myself to men who take upon them to advise, I am aware I have uphill work of it. For even in a common capacity, and with the most candid men, there is a pride of opinion, that opposes conviction. But I flatter myself I could make some impression upon the most obstinate, were I to bring before them a schedule of all those motions, reports, and embrio acts of the two houses, which might be collected from their journals. I take it that it would alarm yourselves with all the partiality which you seem to have for innovation, or as you would call it, reform. Some of these had an abortive birth; others came forward to the very last stage short of the Governor. Anticipation of his judgment, or farther reflection arrested them at this point. But in one remarkable case, amongst others of less convulsive consequence, it came to his negative. I give the instance. It is the prerogative of the federal government "to establish uniform rules of naturalization." Yet a law was introduced to establish a rule of our own, and to naturalize within a shorter period than given by the act of congress. This not confined to state purposes; but extending to all rights of citizenship; in which case, our senators, for congress chosen by members of assembly, who were themselves elected by unqualified votes, could not take their seats. For I call those votes unqualified who had not been naturalized according to *act of congress*. In the same manner, and for the same reason our

members of congress must have been rejected. Nor could the votes of the state electors, in the election of president, be counted for the same reason. Thus the state was thrown out of the union as to these rights and privileges.

Another law fell by an anticipation of the governors negative, or fell by it, I do not know, which, and have not an opportunity at present to inform myself; It was a law, amongst other matters, authorizing, and enjoining a resistance *to the process of the United States*, to a certain quarter of this state; this was putting us hors de la loi; or out of the union at once. Nay more; it was declaring war, and sanctioning insurrection. *An army must instantly have been the consequence, or a dissolution of the compact.*

A motion was made, or a bill introduced to abolish the *common law.* This would have been more immediately felt; for the constitution being but the form of government with some general principles, and the acts of assembly being but a very small portion of our jurisprudence; the common law is the great mass of our system, and the abolishing this would have put an end at once, to the law of compacts and tenure; the law parliamentary, the law of courts, and in fact to almost the whole law of the land. The members were not aware of this; for all men are weak, in matters which they do not understand. It is a matter of science to comprehend those things, and hence in the community *there is a profession of the law.*

Incalculable is the value of mind. A jay bird of the woods, has a mind as well as man; but it is not of the same quality. But even where the mind is of the same quality the want of information on a particular point, brings it almost to the same thing with the natural defect. What merchant is not sensible of the value of an experienced partner in a firm? What farmer cannot comprehend the value of head work above that of the hands; and head work depends upon a knowledge of husbandry, and the foresights, and provisions of skilful, and attentive men. It would be worth while, were not the task invidious to compare the executive administration of Governor M'Kean, with that which has preceded him. I am not about to arraign the integrity of the last, but the *judgment; or the attention.* I will give an instance in a most remarkable and striking case. Who is there who has not heard of the situation of that district of the state for which an office was opened for the sale of lands, by *an act of the 3rd of April*, 1792. Was this law so expressed that

plain men could understand it, or *that judges could not differ?* You will say this last is impossible. Be it so; but in the carrying it into effect, was there no gross and palpable error, or inattention on the part of the land office? In fact, has not all the mischief which is now felt in that quarter of the state, under this law, arisen from the proceedings of the land office? Now I make the Governor responsible for this; for he had the appointment of these officers; and was bound to examine, direct, and correct their proceedings. What have been their errors? The law of the third of April, 1792, provides that "upon the application of any person who may have settled and improved, or is desirous to settle and improve a plantation, to the secretary of the land office, which application shall contain a particular description of the land applied for; there shall be granted to him a warrant for *any quantity of land not exceeding* 400 *acres.*" This restriction respected the quantity of land that was to be put into any one warrant, but not the number of warrants that any one might take out. The object was to secure reasonable fees to the commonwealth, and towards the support of the land office, making many, and therefore small grants. But it was construed that no man should have more than *one warrant* in his own name. Hence the expedient of the names of friends, or fictitious names, and the necessity of conveyances from these increasing the expences of the grant, by conveyancing, and recording which the law did not contemplate, or render necessary; it was the oversight, or misconstruction of the land office.

But this was a small matter compared with the monstrous error which accompanied it, the construction of the preceding clause of the section; the application "containing a particular description of the land applied for." Did not this imply such a description as to distinguish it from all other lands, and which no one could make who had not traversed it, and taken some natural boundary, or designated it by an artificial? Yet after what is called a *leading location*, others were admitted as describing by reference; thus, an application for a tract of land at the mouth of a certain river, and for another adjoining, and a third adjoining that, and so on to the end of the chapter. Such applications could be made, and in fact were made, and admitted, from a map, or even without a map; many just from the name of a stream which from the relation of a traveller was said to run through the country. Hence the number of applications filed the first day of the opening of the office. The whole coun-

try was applied for in an instant; nay a greater extent of country would not have satisfied the applications that were filed. No man meaning to settle bona fide, could obtain a warrant for a tract that was not anticipated by a pretence of application under this admission of the land office. It was a fraud in the first instance upon the public, and the intentions of the law. This, through the ignorance of the secretary of the land office, who admitted the applications. The Governor was in fault that did not on this great and momentous occasion attend to it; or perhaps he misconceived the thing himself, and gave countenance to the error. But hence the intention of the law has been in a great part defeated. This intention was, in a great part, the accommodation of the settlers, and the settlement of the country. But what is perhaps a more lasting evil, hence has arisen the endless litigation and insecurity of title in the country. Would Thomas M'Kean have suffered this? Would a single lawsuit have arisen if Thomas M'Kean, and a land office under him had had the carrying into effect the act of assembly of April 1792? Such is the value of mind, whether in discernment or application. A touch of a finger at the end of a lever moves a great weight. A small matter of care and judgement at the beginning of a purpose, changes the event of great undertakings. Thomas M'Kean is said to favour the lawyers. It is not by giving them work to do as in this instance, both by the want of precision, with which the act is drawn, and the ignorance, or design with which it is carried into effect. If he is favourable to lawyers, as I presume he is, and ought to be, it is not by cutting out work for them; but establishing an administration of justice that will make the practice of the law easy and honourable to them; and less expensive to those that are disposed to employ them. He is not the best husbandman that impounds, and houghs cattle, but that provides good fences, and keeps them in repair.

Speaking of the unwarrantable and mischievous indulgence of the land office, in admitting applications in the case of the law of April 1792, I am not calling in question the titles derived under them; but regretting the admission as contrary to the contemplation of the law, and *an injury to the purchaser.* It has been of incalculable evil consequence. *Innocent foreign* purchasers especially have reason to complain. Thomas M'Kean respects the rights of men too much to do any thing that could affect the titles vested, even under a misconstruction of

the act, or contrary to the policy of it; but certain it is, that his study has been to arrest, and as far as possible to restrain the evil. This he has done by ordaining and establishing a clear and correct proceeding in the land office, which has been felt with the deputy surveyor of the district, and from him to the surveyor general; and the other officers of the land office, constituting the board of property. Is not this a great help, both in the claims of this, and other districts of the state, towards preventing and extinguishing litigation. But the Governor has little credit for this; for there are many that feel the good effects, yet there are few that can comprehend from whence they spring.

In a mere fiscal point of view what have been the savings of the state from the judgment and attention of the present Governor in carrying into execution matters of contract, in the collection and payment of monies by the public officers. A contrast to this would be a revenue history of peculation, and embezzlements, and insolvencies before his time. Delicacy forbids me to enlarge upon it; and I have but a general knowledge of the delinquencies, of commissioners, of forfeited estates, and for other purposes; of contractors, and the whole spawn of public agents heretofore. It must lie with some one that has possession of the public documents, and perhaps has authority, by an act of the legislature itself, to undertake this. But it would contribute to ascertain who have been the faithful servants of the people, and who are most capable of discharging a public trust. As to all this I would not call in question the good intentions of a successor to the present Governor, or perhaps the ability; but there is something in gratitude, and the not discouraging by an unworthy repulse, the officer who has *made the reform, who has shewn the way, and set the example.*

There is nothing of greater moment in a republic than the distribution of justice; by which I mean not merely strict right, and what may be claimed as the Civilians say, Ex debito Justitiæ; but what the distinguished citizen may expect under the obligations of honour, and as what is due to extraordinary virtue. What is the Constitution but a skeleton? What are the laws but limbs and blood vessels? The sentiments of honour, and virtue which a good education inspires, are the nerves of the system. Destroy, or relax these, and the republic goes down. I feel a repugnance on this ground to the efforts of those who oppose the re-election of Thomas M'Kean. It will dis-

courage patriotism and put it in the hearts, if not in the mouths of those that come after, "*let us cultivate popularity, and do what suits ourselves, not what serves the commonwealth; for you see it all comes to the same thing.* Let us be upon the look out, and watch *the will of the people*, like the anxious sailor, who observes which way the wind blows. For it is the man that pleases the people, not the man that serves them, that is rewarded."

It is not all at once that the people can find out who it is that is in the right; *themselves, or those who differ from them.* It is a discouragement to a Patriot to reflect on these things and it saps virtue. It is what turns many to seek happiness, in private wealth, and to be regardless of the public. It is the duty of every good man to lessen this imperfection of the social state, by bearing his testimony in favour of merit, and letting down the aged patriot with honours from the stage.

It is humiliating enough to a man who has really had at heart the public good, to be troubled with the importunities of those who wish him to do wrong, because it suits themselves and is *the price of their election and pays for it;* but to have the language of natural irritation distorted, and to be held up to the people as undervaluing them and calling them clod-hoppers, it is still more difficult to bear. It is robbing him of that which he has at heart, and which is a great part of the solace of his labours, *the good will of the people.* For the object is to have it understood that he had undervalued the landed interest. Now I could easily conceive this of a young man of the education of a city; but of Thomas M'Kean, born in the country almost before there was a city, and bred up in it, and acquainted with the growth of every village, and the plantation of almost every field, I could not conceive it. A man must have a weak mind indeed, who at the age of seventy, can undervalue the cultivation of the earth where he must shortly be deposited; and who is not dead already to the vain distinctions of pursuits in life, or occupation. It is not in the nature of things credible. Such a sentiment is the offspring of unbroken vanity, of sudden elevation, and premature honours.

I am aware of my partiality to age, for I am an old man myself: I bore a musket on my shoulder, in a private capacity, so early as the year 74 in the revolutionary war; and I feel it hard even in the case of others, to be jostled out of public confidence; by unfair means. I call it unfair when men resort to that which may affect the weak, and which they themselves

know, ought not to weigh with persons of understanding. It is to be expected that it will meet instantly, and in all cases, with the true interpretation, which is that it is an insult to those to whom this argument is addressed. For, it supposes a weakness of understanding in those who can be moved by it. Such indeed would deserve to be called *ignoramuses*, and with as true a return as ever was indorsed by a foreman of a grand jury.

Friends of the people, I am for the re-election of Thomas M'Kean, because I think it will *impede the effecting a change of the constitution;* for, *defeat abates confidence, and lessens partizans.* Thomas M'Kean will also use his authority to suppress an attempt to effect it by other means than a fair *vote of the whole people;* and thus we shall be secure, for at least, three years, against *usurpation.* But I will candidly acknowledge, that I am not for taking a vote at all, at the present time; because I think it unseasonable for the forming a constitution. It would seem to me to be a time, of great error, and delusion. Much prejudice against a profession of men the most capable of assisting us in forming it; *the profession of the law.* "A certain people upon an island, proposed to build a boat to carry them to another country. An old man opposed it. I would wait said he, until you seem to have better notions of the ways and means of going about it: you call out against all men that are instructed to handle mechanical implements, or that are taught the principles of the science, I am apprehensive that you would employ *the cook to lay the keel, instead of the carpenter.* So that when we had built a boat, and had embarked, it would be but to *founder in it.*"

I would wish, like the old man, in the case of the boat, to gain time for the framing a new constitution; until we are in better temper, and have more skill to attempt it, as for instance, until young Duane, has learned more moderation than his father, and Daniel Montgomery has ceased to be *junior;* until Boileau, has been longer from the academy; and Ogle from the mountains; until Steel becomes *polished;* and M'Kinney has improved in his orthography, so as to be able to take the place of *secretary Mitchel.* Some small desiderata of this nature, might not be amiss, before we begin the work.

But it will be asked what evidence is there of error in the public mind, whether from the proceedings of public bodies, or public sentiment in any way expressed. The journals of the

public bodies, afford evidence, in motions made or reports introduced to abolish the *common law* which makes a great part of the charter of our liberties; in a series of efforts, and with some success to abridge the trial by jury; or to entramel it by compulsory arbitrations; in bills introduced, and pushed even to the last resort, to dissolve our connection with the union; and to authorize hostility; in attempts to take appointments out of the hands of the state representative, and to vest them in the local, or district delegates; in that spirit of hostility to the *judicial branch*, and the administration of justice by *courts of law*, which is apparent on the face of the proceedings, and, to be deduced from the speeches of members said to be delivered on the occasion; from harrangues in popular societies; fabrications, or actual libels in the shape of addresses from members of public bodies, circulated through the country, and calling in question the innocence of constitutionally acquitted judges, attacking the integrity of the tribunal of impeachment itself, &c. &c. &c. Add to all this, what may be collected from gazettes, pamphlets, letters, and sentiments on festival occasions; proscribing rich men, and men of *talents* from office; denouncing lawyers under the denomination of *Philistines*; and calling themselves Sampsons, who have nothing but his faulcion; advocating, or propounding the wildest principles, the crudest theories of government; all leading to place the supreme power in a single body, and of course in a single person; undermining at the same time, by necessary consequence; or in plain terms attacking *the constitution of the union*. These and the like particulars, are a few of those which mark a want of temper or understanding in the times: times, as it would seem to me of wonderful delusion. "The prince of the power of the air would seem to rule in the children of disobedience." For I can account for it upon no other principle, but that privilege which Satan is sometimes allowed upon the earth. He is the enemy of man, and the author of all false doctrines. The atmosphere of opinion sometimes becomes his empire; and then we have political, or religious vapour, and influenza, or pestilence.

Friends of the People,

IT would seem to me, that the multitude now, like the multitude at all times are willing to be right if they knew how to get at it. They are careful of liberty, and anxious, to preserve the sacred fire: but one thinks it is going out, and stands in

need of being fed with oil; another is alarmed at the strength of the flame, and is apprehensive of the burning of the temple. Now the fact is, it depends upon the temper of the people, whether we are to enjoy a holy light, and benign heat, or shall have to feel a subterranean fire, and be covered with the lava of Vesuvius, or Strombolo. Why cannot you, by your advice *to the people*, and my advice to you, compromise this difference, and conduct the electricity of opinion, harmless from the rods? Let such as are against the re-election of the old Governor, withdraw their opposition. There are 50 years of patriotism, and 70 years of age and honesty against the denouncing conspirators, or calling people *clod-poles*. His usual guard upon his language is remarkable: his deportment is correct, and dignified: his erudition is profound; his judgment vigorous, and his power of mind strong, even on the admission of those disposed to detract from him. The whole of his public communications do an honour to the commonwealth: the thought is precise and clear, the language simple and majestic. It will not suffer in comparison, with that of any statesman; but superior to the most. It has not fallen to the lot of a single state of the union, to have one of equal years and experience at the head of their affairs. Our patriots are not so plenty, nor our aged veterans so numerous, that we should throw them away from our history, lest it should be throwing ourselves out of character with other countries, and out of reputation with posterity.

AN ADDRESS

TO THE

FEDERALISTS.

BY DEMOCRITUS.

THE election of 99 was a great struggle. I have no doubt but that on your part, it was a struggle for *principle;* with a love of power intermixed. I was against you in that, struggle, on account of the *youth* of the candidate, and for other reasons that weighed with myself, and were sufficient. But I have a conscience void of offence towards you and towards him; for through the whole contest I did not say a word to his disparagement, nor did I approve of the obloquy on the occasion; on the contrary thought it disreputable to his opponents, and an injury to the cause. There is a generosity in the public mind that takes part with the ill-used; and had not the venerable M'Kean been also assailed in his personal feelings, I do not know how far the indignation of the public might not have gone, to have elevated his competitor. It was certainly to this that he owed many votes.

But though against you in the struggle of 99, I had been before with you, on many and great occasions. Nor was it the first time, I had been against you, *as a party.* I was with you, on the adoption of the *Federal Constitution.* I was against you, in some leading acts of the *administration;* the providing for the payment of the *aliened certificates*, at something not far short of par; the establishment of the United States banks, increasing the inequality of the gain; *the assumption* of the state debts, and the internal taxes the consequence of it. Nor were the measures of government altogether to my mind in our relations with France. I was for striking Britain, and invading Canada, the moment that Britain declared war against

France. I was against the sending John Jay to treat, not only because he was *chief justice*, but because I did not wish to treat at all. But when the treaty was made and had been sanctioned by what I thought the legitimate authorities, I was for *making appropriations to carry it into effect;* and I could produce evidence of having contributed something to bring that about.

But though with you in framing and adopting the federal compact, and all the measures that led to it, yet I was against you in the *calling a convention to alter the state constitution;* not that I did not think that it required an alteration; but because the council of censors were to meet in one year, with whom a power was lodged to alter it. But I was with you in approving the constitution that was formed, and have sworn to support it. But there was no occasion for an oath to bind me, for my affections were sufficient. It is the most democratic in the Union, and at the same time the best stayed. If we lose it, I have no hope ever to see "its like again."

Having brought the matter now to a point, and talked of those things in which we have differed, we have got one thing in which we are agreed; the preservation of the constitution. Shall we be agreed in what would seem to me to be a point intimately connected with it, and on which, if I mistake not, it, in a great degree depends, *the re-election of the present Governor?*

But he has called you "traitors, tories, refugees and apostate whigs." He has proscribed you from offices, and there cannot be shewn a single individual of the party against him, on the list of his appointments. Now I have you as men of honour; as men of principle I address you. As men of principle it is not in your power to justify the not supporting him, for, he has supported principle. As men of honour you will feel the indignity of being suspected of resenting, at the expence of principle. The noble mind rejoices in an occasion of magnanimity. The self-love of the proud, disdains the being thought moved by unworthy motives. You wanted not offices; the charge against you is that of being rich, or being men of *talents* who can acquire riches, independent of office. But you wished an opportunity of shewing there was need of you. Well; you have got it. But it was not Thomas M'Kean gave it to you. It was not him brought the commonwealth in danger. I am not able to advance that in his behalf. On the contrary, he struggled hard, and bore every thing short of humiliation to avoid a schism; and to keep you from having it to depend upon you

to turn the scale of his re-election; but which unquestionably you have now in your power by joining his adversaries. If you can reconcile yourselves to inactivity, remain inactive; for it is morally certain, we can succeed without you, and that we have a majority of those who before voted for M'Kean on our side. But if you think it doubtful; (for you have the same opportunity of calculating on principle and deducting from information that I have,) and are unwilling to leave so great a stake to the slightest risk, you will come forward, and give a vote. But let it be in a solid body; not in a scattering vote; for it will not otherwise be known, that you gave your weight, and you will not have the reputation with the world, and the consciousness with yourselves. For so great a stake ought not to be left to the slightest risk. Will it be nothing to be subject to the present councils of certain persons, even though Dallas and Israel and Blair M'Clenachan, who was for kicking *the British treaty to hell*, should be subject to the same councils? Even though a numerous body of what have been called republicans should share in the degradation and be put in the same *hole*. An occasion of common danger puts an end to animosities, even amongst the brute animals. Shall man be less than irrational; shall he be a Demon?

In all bodies there are light substances that attach not to the solid, but fly off; and therefore it will not be that all under the denomination of Federalists can be counted on. But, I would take it, that the greater part of you will see things in the light of a common danger, and even for the sake of the deluded people themselves, all of you who are men of humanity will be ready to interpose. For need I explain to you, that these people are bringing the same ruin upon themselves that they are upon us. Under the idea of crushing *Philistines*, like strong and blind Sampsons, they are laying their hands upon the pillars, and pulling down the temple of the laws.

But it is of importance not only that the old Governor be carried at the present time, but that the force in his favour be a great majority; because in proportion as the malcontents approach their purpose, they will be encouraged to persevere. They have the *love of novelty* on their side, which is an ever during propellant; and they have the love of power which never wearies in its efforts. But patriotism will weary and sleep. The people will become tired of resisting intrigues. They will be confounded with the variety of plots. Designing men will

succeed at last. Should the present Governor be elected with but a small majority; and should no great change be made in the representative bodies, things will go on in the same way; the administration of justice will be kept at a stand, and the public be poisoned, by blasts out of doors, and defamation from within; the members running home every session from the *Sampsons* that command them, like so many foxes with *addresses* like firebrands tyed to their tails, among the standing corn of the *Philistines*. Thus at length the object will be accomplished and a revolution brought about. Then we shall see a renovation of all things. Those that stop short will be denounced; it will be necessary to be violent in order to be something. At these times moderation is not a civic virtue. When the hot mouth has blown awhile, the hand will be at work. The Constitution of 97 is overthrown, by our American Girondists; these go down before the Montainards; the mountain divides, and Danton is thrown out by Robespiere; this monster is run down, and the Directory takes place; the public peace is insecure, property uncertain. All call out for a change and submit to despotism.

I have no idea that the men engaged in this project of calling a convention mean murder, and confiscation; but they will be denounced and thrown out because they do not mean it. It will astonish them to hear themselves charged with being but halfway in a reform. They had thought they had been reformists enough in all conscience. But as the times grow hotter they will be comparatively cold, and unfit for action.

Gentlemen of what has been called the Federal party, I know the way of thinking of some of you. You charge it to us who are now denominated *constitutional republicans*, that things are brought to this pass. Are you yourselves nothing to blame in this? It did seem to me that some leading measures of the Federal administration, subsequent to the adoption of the *British Treaty*, were at least questionable on the ground of constitutional authority; such as the Alien and Sedition bills. The House and Land Tax had strongly my disapprobation, and the raising the *Provisional Army*, on the ground of being neither necessary or *expedient*. For these and the like reasons, I thought the revulsion from your power as natural, as I now think the opposition necessary to the contrary spirit of the revolutionists; not that I blamed you in a body; but *the leaders in the public councils*. If I have been wrong, it has been an error of the

judgement; *the fallibility of opinion.* But this is not a time for mutual accusation; for unavailing recrimination. We shall have time enough for that if we lose our laws and government. At present there is need of what has been attempted to be frowned upon, but will be approved, and prosper, *a Union of honest men.* Not that we can expect that all will be honest that engage even in the cause of virtue; but we hope the bulk will be so; and by their moderation, perseverance, and fortitude, act worthy of the purpose.

AN
ADDRDSS
TO THE
FEDERALISTS.

By DEMOCRITUS.

(CONTINUED.)

THE phrase, "a union of honest men," has been *frowned upon*, and attempted to be run down, with some propriety, and with some success, from being used on an occasion where it was improperly applied. For could it be rated *a union of honest men* when the attempt was made to place Burr in the Presidency, for whom it was not intended by the *vote of the people.* For though the vote was equal, yet it was notorious, and within every mans knowledge, that no more than the Vice-Presidency was intended; and though the Constitution gives the House of Representatives the power to chuse the President in case of an equality of votes, yet it can only be when two candidates for the Presidency happen to have an equal number of votes, that the election can fairly have place. In any other case the election may be *sirictly legal;* but it savours of trick, and stratagem, and does not satisfy the mind. It is dangerous in practice, and I believe, if pursued in the case mentioned, it would have terminated in a dissolution of the union. I do not therefore think them *honest men*, in this particular, who distinguished themselves on that occasion; and it was pleasing to me to find that few at home, amongst the federalists, were disposed to approve, much less to sanction this proceeding of the leaders of the party in the public councils. Will you then approve, or sanction by your inactivity and silence; or suffer to be carried into effect, an attempt of a nature precisely similar, in members of the Legislative bodies of Pennsylvania; an attempt to bring about

the call of a Convention, and to change the Constitution by surreptitious means? For if the placing Burr in the Presidential chair was a meditated fraud upon the intention of the public vote, so in the present instance was the act of members of the Legislative bodies, a deception; taking advantage of their political situation to project a change, and draughting and soliciting petitions, from without, as is alledged, to give a colour to the resolutions. The republicans, so called, who have broken off and dissented from these politics, are honest men in this particular, as you yourselves were honest, and disposed to shew yourselves so, in the cause to which I have alluded. For, as in private transactions no partnerships will exist, no dealings will continue where over-reaching is practised, and where candour, nnd uprightness is not the study of the parties, so in public matters and affairs of government, good faith, alone, can secure amity. and preserve the republic. It is on this ground therefore I am of opinion that in the very manner of bringing it about, there was great mischief in the project of calling a convention, and that no prudent man could approve of it. But do you approve of calling a Convention even in the fairest manner at the present time? Or would a prudent man approve of it at any time with the idea that you have of the goodness of the present Constitution? Who can say unto a Conventional body, "hitherto shalt thou go and no farther, and here shall thy proud waves be stayed?" He must therefore be strongly persuaded of the absolute necessity of a reform, before he can think it advisable to recur to first principles and *dissolve the society*. Who does not see danger in the ideas of the present time? What federalist does not recoil at the proposition, and does not see the dissolution of the union in the *dissolution of this Constitution?* It does not necessarily follow; but it is morally certain. What is it that is blowing up this hurricane, and putting the billows in motion? General pressure, public grievance? I need not ask you that question. You know it is a subterranean blast from hidden fires. The Federal Government, like the city of Rome, is built upon many hills; blow up one and the whole is shaken. Do you not see that the removal of the present Governor is blowing up a fortification. There are of you that are not persuaded of this. That being the case, my reasoning will not hold good. But I believe there are few out of the state that do not see things in this light; and I take it, there are not many of his late supporters, and present oppon-

ents, who do not consider his re-election as an obstruction to those innovations which they meditate; or as what will defeat them altogether. Such of you as are of opinion that his re-election will be a barrier against incroachments at home, or overthrow abroad, whatever be your antipathies, personal, or on former grounds, political, you cannot avoid coming forward at the present time, and forming a junction to support it. I will not say you are no Federalist if you do not; but this I will say, you will soon have nothing to be Federal about. The very name will be extinct. As the case now is, you have a prospect of restoring the popularity of the appellation. For you all know the fluctuation of popular opinion, and that credit which depends not upon intrinsic value, but upon success. Our first distinction in Pennsylvania, was that of Whig and Tory; the success of the whickam, or whig cause in Britain, established the respectability. The tories called themselves royalists. Our next distinction was a subdivision of the whigs at the forming of the State Constitution, 1776; which was that of Constitutionalists, and Anti-Constitutionalists. These last called themselves Republicans, but were unsuccessful in the appropriation. At the formation of the Federal Government, that of Federalist, and Anti-Federalist became the terms of nominal separation. On the adoption of the Constitution, the Anti-federalists wished to strike off a term which brought to mind the opposition; they called themselves Democrats, and democratic societies were instituted; not with a view to undermine the Constitution, as was alledged, but to check or overthrow the administration. The insurrection of 94, and 96, discredited the name, and the societies went down, and the word democrat together. Republican was assumed on that side, as the description of party. A subdivision has now taken place, and we have Democratic, and Constitutional Republicans. Constitutional will mean the same thing with *Federal* if the cause prospers and the Constitutions can be preserved. There is no man of sense that thinks any thing of the name. It is the thing, the substance, the principle, the cause which he has in view. All else is but cant and jargon, or the necessary criterion of a side with which a man happens to think for the time being, on a political question. But when one happens to be ranked on a side there is a self-love and pride in human nature that leads him to wish to see it live and do well. But when it errs the same sense of what is due to the public good, that led him to it, will drive him

from it. That man is at the lowest grade of human understanding, and moral rectitude, as well as political respectability, who can talk of sticking to a side when the principle is gone, and the name alone remains. It is a coincidence of the same way of thinking that produces association, and this is what I mean by a *Union of honest men.*

It is not that all under the denomination of Federalists are honest, or that some of a contrary description are not so. On the contrary, where there is error on the one side, there is passion, or a worse motive on the other. Some will tell you, *the more mischief the better sport.* The idea is, that the worse the measures, the more easily disgraced, and the sooner brought to a crisis; that a strong government will be the result. But it may be *too strong;* and is there nothing to be dreaded from anarchy, and confusion before you get to the Emperor? By a coincidence with the revolutionists though from different motives, you may think you will be favoured while they occasionally prevail. I have nothing to say to you who reason in this manner. You are not Federalists; you have but the name. For I consider the attempts of the revolutionists, and the sentiments which they propagate, however they may mean them, as more destructive in their tendency than popular tumults, or fortuitous insurrections. These may be suppressed by the mass of the people; but where the stamina of opinion are corrupted it is a more serious evil. These things you will consider, and take in good part what I have written.

AN ADDRESS

TO THE

PEOPLE.

By DEMOCRITUS.

IN the present canvass for the election of Governor, it pleases me that we have been able to proceed so far without personal allusion in matters that did not respect the qualifications for the duties of the station. I had expected from the bad habits of individuals, or a false taste of what is ingenious in writing, that before this time we should have heard many changes rung upon the name of the new candidate; Simon Snyder, Simon Magus, or Simon the Tanner; and that if any circumstance, in the history of his life, had furnished a handle for truth, or distortion, we should now have heard of it at the expense of private character, and national reputation. For there are things which do not greatly concern the public, and which, nevertheless the self-love of the undeserving, leads them to specify, when they shew that the greatest men have blemishes, and are not altogether perfect. We hear nothing against Simon Snyder, either in matter of blemish, or radical defect of character; at which I the more rejoice as it shews a delicacy worthy of the cause on the part of the *constitutional republicans*. I take it for granted that the *speaker of the house of representatives*, is a respectable man; and may be competent to discharge the duties of a Governor; what is more, may be in his mind disposed to restrain the madness of the present time, and the false sentiments that prevail on matters of law, and government. But from the principle on which he is brought forward, it will be impossible for him to steer in that direction. He must throw up the ship into the wind, and give the helm to every man that chuses to shape a course without regard to observation, or reckoning. ——A Convention must be called in the first instance, without taking the vote of the people on the previous question, *Conven-*

tion or no Convention. In that case no man who considers the proceeding a *usurpation*, will be able to reconcile it to his conscience to give a vote, in the election of members to such Convention. I shall be one of those who will not be able to reconcile it to myself to take any part in the election. If a constitution is formed, and there shall appear a general disposition to submit to it, I shall think myself at liberty to submit also, for it will amount to a superseding the old; and I cannot owe allegiance to what does not exist, and can no longer afford me protection. Thus it is that a change of government may be brought about without the consent of the people, unless the election of Simon Snyder, may be accounted as giving, by implication the sense of the people on that question; which will not be a fair consequence, as many in directing their attention to the election of Governor, will not think of a *Convention.* But that Governor Snyder must yield to the volitions of the county and district delegates for the time being there can be no doubt. Having deposed one Governor, for contumacy and disobedience, it is not presumable that another would think it advisable to have an opinion of his own; but would become the mere secretary of state to the two houses; until such time as the government was new modeled, and the office dispensed with altogether. For I understand it is the idea under the projected form to vest the executive and judicial authority, with the legislative power in a single house, in the recess of which, executive and judicial committees are to perform the respective functions of Governor, and judges of *the higher courts.* Justices of the peace are to resume their seats on the *inferior benches*, removable at the pleasure of the house. The independence of a judge seems to be scouted and run down; and will remain so, until the people come to have a full sense of what it is to have a judge dependent to the extent contemplated in the reform now under consideration. A man of reflection may have some idea of it by supposing himself to have a cause depending and about to come before the judges. Law knowledge they are supposed to have none; but to decide according to what seems equity, and natural justice independent of rule or authority. Now in this case, it will be more their concern to find out what the by-standers think of the matter in litigation than what they themselves ought to think, or the reason of those who have gone before them. Hence it is, that when the head is weak, and the hand that holds the scales of justice trembles, there is little security, for

life, reputation or property. For it will be said that government is not intended to serve or protect the rich, but the poor. There is doubtless a prejudice against *the rich* at all times, and it is justifiable to a certain extent. For the scripture tells us that he "that maketh haste to be rich shall not be innocent;" and "that it is easier for a camel to go through the eye of a needle than for a rich man to enter into the kingdom of heaven." But it does not follow that the man who becomes rich, by the common means of industry, must be a knave; or that a rich man may not be fit for an office in this world, provided, if I may be allowed to smile, he is without *talents*. But setting office aside, will there be property where it is not protected? Unquestionably it will always be in proportion to its protection, and this will be in proportion to the certain and stable administration of justice by known rules, and by men skilled in the knowledge and versed in the application.

That against rich men is a standing prejudice of all times because there will always be a class that are not rich; but it has not been common in the world to hear of a prejudice against talents, because as these are the goods of imagination, all men think that they have *talents*. But the inconsistency is great to declaim against talents, and at the same time, to resent the being called "*ignoramuses*." The fact is, however, that the being thought a man of learning, and especially to have any knowledge of laws, is at present no recommendation in political life. When things are come to this pass, what prospect is there of a flourishing commonwealth, and the preservation of liberty?

That these prejudices when they have had their day will vanish, I have no doubt; provided in the mean time, we can preserve the bark of the constitution, until we get through this whirlpool, of false sentiment, which is now struggling to absorb it in its vortex; to the destruction of those principles of government which can alone support liberty. The meum and tuum is a great object of society. All agree in this; but differ with respect to the organization of tribunals of justice; the necessity of fixed rules and the knowledge of them by a course of study and practice. Hence the prejudice against lawyers. They see a man open his mouth, and reason with the court, or harangue the jury, and they think the labour easy, and the service moonshine. They are not aware of the excessive toil of the student, and the drudgery of the practicing lawyer; the thousand heart-aches that he constanly suffers in taking care of the cause. He spends

half a life before he is fit for his profession, and it is not one in seven after all his application, that succeeds at the bar.

But a lawyer is unsafe for state affairs. This is the only country; I believe I may say the only state, where it has ever been thought so; on the contrary, this profession is, of all others, believed to be the most competent to form a statesman; and qualify for the administration of justice. We apply to Latrobe, not to a stone-cutter, to draw the plan of a building, or to give the working draughts by which it is to be erected. Yet the weight of the complaint against Governor M'Kean, and on which a competitor is set up against him is, that he objects to plans & draughts of men however intelligent they may be in other matters, yet who can be indebted to unassisted nature only for their ideas of juridicial improvement. It is not enough that he yields to individuals on subjects more immediately within the sphere of their knowledge, agricultural or commercial subjects, or matters of a local nature, but he must conform to their notions on subjects of jurisprudence, or the organization of courts of justice; otherwise they will call on you as they have done, to dash him from your councils, and from his purpose of giving this state such a system as would serve it, and bear his name to posterity. Or is it the alledged *contempt of themselves that they wish you to resent?* This is a province which they insist upon engrossing, *the punishment of contempts.* For they *impeach* it in a judge, but pursue it to the ultimate vengeance in their own case.

You are the sovereign people; but like other sovereigns your ears are liable to be abused with the *tale of the informer.* Who could ever have imagined, that having got clear of courts, and court intrigues, we should so soon come to the same thing in a republic? It is not sufficient for a man to have the interest of the sovereign at heart, but he must be put in fear of the people about the court, and fellow officers who cannot have more zeal, and certainly not more capacity than himself.

If the re-election of Thomas M'Kean is opposed on this ground, it will not do credit to the state in history. In writing a memoir of our own time, it cannot be noticed in a manner much to the advantage of the sovereign people. For their sakes we would rather slur it over, and keep it out of view, that they had sent such personages to transact public business as deserved to be undervalued, much more would we wish to soften the circumstance that it had weighed with the people, and had a great

effect. But what will be the consequence at the present time if it is rendered so highly penal to call things by their true names, in a republic; a characteristic of which is, freedom, and perhaps bluntness of expression? Shall we not lose as much on the one hand as we shall gain on the other? For if it does produce more concern about the manner in which we express ourselves, it will proportionably detract from sincerity, and the frankness of communication. I should think it ought not to be a capital offence yet, to call a spade a spade, or to give way to a little indignation in our language, when we meet with wickedness and folly in the representatives of the people, however sovereign they may be in the appointment. For it is but one representative taking liberties with another, which perhaps he has a right to do.

It will be giving a more brilliant turn to the page of the memoir, should such be written, to have it to relate, that the sovereign people, instead of punishing for a contempt the expressions of the Governor, treated with contempt the information, or complaint, as not the subject of their consideration, but a matter that lay with the Governor and the individual representatives. If they thought themselves ill used, let them keep themselves the farther from him, and attend to their legislative functions. It was not to solicit justices commissions, that they were sent to that body, and if they got over the fingers for going out of the way of their duty, there was no harm done. The truth is, that if the Governor had been in fault at all, it has been in the indulging them too much in their importunate and personal solicitations; they have begun at last to consider it as a right to be heard on matters of an executive nature, and as a wrong not to have a conclusive voice, in his appointments. Whence else this appeal to the public on the treatment of *indignity* with which members met in the course of in-ex-official intercourse or correspondence with the Governor? The men are not clothed with official dignity when they are out of doors. It can be no breach of privilege to tell them a little truth however unsavoury, when they are not under the shelter of either of the two houses. It is painful enough to a man that has come through this world a good deal, to consider what airs a little "brief authority" takes upon itself. I hope there is good sense and justice in the community sufficient to repel this attack upon their State Representative, and upon the peace and standing of an aged patriot, and faithful public servant; which may God grant, and let all the people say—AMEN.

DESULTORY REFLETCTIONS.

By DEMOCRITUS.

THE Governor is charged with a *contempt*, in his influencing the senate in the acquittal of the judges. Was it by promises of office that he *influenced* them, or *opinions* occasionally expressed. If by opinions, was it any harm in the Governor, when the *friends of the people*, were giving opinions out of doors, for him to give an opinion also?

He is charged with a *contempt* in not removing a judge upon an address presented; or the not giving a reason for the not removing. Was it a *contempt* to give no reason? The houses sat but *six hours after the address*, and the Governor might have been employed in other official matters which had come to hand sooner. But he answered *contemptuously*. "As at present advised, *I will not remove*." This is a phrase of the bench, Curia advisare vult.

But the Governor was guilty of a *contempt* in speaking of signers to a certain petition for the calling a Convention, and speaking *contemptuously* of the project itself. But is it not carrying the penalty too far to consider him as disqualified from office, for these *contemptuous* words. Would it not look like being *contempt* mad, to push the docrine of contempts to that extremity? Is it not carrying it farther than even the *common law* would seem to authorize?

I do not find that the *contempt* alledged in the case of the words spoken, has had so much effect upon the public mind, as was expected. Men are mistaken in thinking the world will take so much interest in their affronts as they had flattered themselves with expecting. Some call the complainants weak men, and say that if they had kept their own secrets, no one would have known, *what the governor thought of them*.

It would probably have been as well if the Governor could have kept his temper and avoided the precise phrases which have given a handle, to the uncandid and designing, to work

upon. But a great deal was done and said, to provoke him. He was bull-baited, by those who had projected a rupture with him, a long time before, and had wished to extract from him *contemptuous words*, in order to have a ground against him with the populace. As to the having a contempt of their proceedings, it was impossible it could be otherwise ; or at least, it was impossible not to have felt strong indignation, and resentment at the insidious attempts upon the Constitution. Well might he think them fools or knaves, and bestow such epithets as designated these.

So far as my information extends, it has done the Governor no harm, to have expressed himself in the manner he did, or is even said to have expressed himself. The old men at home especially, say they are glad to find the Governor has treated these upstarts as they deserved, only it ought to have been *goslings*, not geese, that he called them, who are scarcely out of the shell; unfledged yet, and nevertheless will gabble as if they had saved the capitol. If this shall be construed a great state *contempt* and it shall be found materially to affect the re-election of the Governor, it will render the state itself contemptible.

Is it a fact that a number of those who have received commissions from the Governor, are opposed to him in this election ? If so, what is the reason ? It cannot be a consciousness that they are unfit for the office, and that they are unwilling to trust him in the appointment of others, *who has made so bad a hand of it in themselves*. For it is the last thing a man will suspect that he is unfit for an office. It must be to make fair weather with the office-giving power that is to come after him. But query the policy of this : do we not trust him most readily that has been faithful in his good will to those to whom he is under obligation ? But it may be principle, and a prefering the cause to the man. It must be a strong attachment to principle that can overcome the feelings of gratitude. It ought to be a clear case, and not such as about which men may reasonably differ. It proves however, that the Governor's patronage is not so very formidable as on abstract grounds, it might be supposed to be.

Can there be any higher evidence of the existence of ignoramuses in this state, than the idea of abolishing the *common law*, or considering it a nuisance. Yet this idea is entertained even in the legislature. One of the members wrote to his constituents on the acquittal of the judges, that one point however had

been gained; they had *broke the common law.* Had this man never served on a jury, who claim the right to decide the law and fact both, and not know that the *common law* is a great part of that law by which they have to decide? Had he read nothing of the ground of the late struggle for liberty in Ireland, where the being deprived of the common law, is always laid down as a grievance. I will cite in proof, words from the speech of Edward Sweetman to the freeholders of the county of Wexford, September 22, 1792. "Henry II. granted the Irish the common law of England, and they *gratefully received and swore to the observance of it.* They in justice became entitled to the benefit of that law. Instead of this," &c.

It is astonishing how men will mistake right and justice, from the difference of situation in which they are placed. During the trial of the judges, I happened to be at a county town some distance, where the stage stopped: a man alighted who had been but two months from England. What news, said his acquaintance, who had come over in the ship with him, and was waiting his return to the village: O, said he, they tell me there is great danger the judges will be acquitted. Is it possible, said the other; then about ship, we may go home again; there is no liberty here more than there is in our own country. This man had no knowledge of the maxim of the *common law, that every man is to be presumed innocent until the contrary appears.*

It was a charge against Governor M'Kean, pending the canvass for his first election that he had wished for 10,000 United Irishmen. The only mistake in the case was, that it was 20,000. But if the greater number of the emigrants are against him now, as is alledged, he will be disposed to retract his wish. It is painful to reflect that men having a good cause, as the Irish had, should have failed in asserting it; and it would be still more painful if by their conduct here they should prove that had they succeeded, they would not have made the best use of their success. I would not be afraid to submit the re-election of M'Kean, or the goodness of our Constitution to the judgment of the leading Irish patriots, Theobald W. Tone, or Emmet, &c.

How hackneyed the phrase, "*the people,*" is become. Is there no danger that it will become a mere cant phrase, and have contempt attached to it. One of the people attaches to himself the sovereignty of the whole. It is excusable in the representative. For it takes 12 or 1500 people to make one of

these. This occurs to me seeing so much said in the papers, for I neither see nor hear of it any where else, of the Governor insulting the people, because speaking of a few of them he called them *cod-heads.*—

There seemed to be but one thing wanting, said a student to me, to make Governor M'Kean's history interesting, which is that he should be treated with *ingratitude.* For that was the case with almost all the great men of antiquity. Degradation or exile almost always follows great services. What a rabble mankind would seem to be upon a great scale; slaves to their conquerors, or tyrants to their benefactors. It is generally owing to leading demagogues who envy the good, and take advantage of occasion, to excite a prejudice against them. A book on this head might he a school book for a republic.

I am told that manager Boileau, on the trial of the Judges, urged the Senate to look to the sentiments of their constituents; that is, to the people out of doors. What a lesson this for the judges who were trying; and what a pledge of the principle which when he becomes chief justice, will guide him.

I do not despair of the republic provided there is time given to unfold the designs of men, and to develope principles. I could point out those by name who are now what may be called "preachers of righteousness," or advocates of just notions of government, with whom we have had as much trouble in times past, as we have of late had with Boileau, or Ogle. I was struck early in life, with the charity of a Presbyterian divine; is there no room to hope, said he, "*that Satan may one day be converted, and come to heaven?*"

It would seem that *Steel* and *Lawler*, are in the habit of giving a cart blanche to write addresses on. This is not carrying the matter so far as a member of the Executive Council in the time of president Dickinson, who proposed that his excellency being about to leave the state for a day or two, should sign a few blank *death warrants* to be filled up in his absence if there should be occasion.

The press has introduced a remarkable change in the history of government. It is not a Cleon, or popular orator, now, that misleads; it is the *editor of a press.* The editor himself is oftentimes an uninformed man, and though with natural talents, yet destitute of solid knowledge.

His correspondents are oftentimes the idle and uninformed, and the public is misled by the ignis fatuus of their rhapsodies,

and lucubrations. There is no remedy for this but in men of judgment, and integrity geting at the head of papers; men of experience in affairs, and not mere *green horns in politics*. Those educated in the country, other things being equal, are safer than editors from abroad, if we may judge from the proofs we have had in Cobbet, Calender, Anthony Pasquin, &c. &c. They are ignorant of the demerit of men, and mistake as to the event of things. The result is *ruin to themselves*, and in the mean time, a hurt to the public.

It is no more worth while feeling resentment at the folly, or knavery of men in political life, than at the evils of the natural world, which with care we may lessen, but cannot wholly remove.

I am diverted hearing of a late Sheriff in a back county who is active against the Governor, and gives as a reason, that the Governor is not a good republican, having commissioned him (the sheriff,) in preference to another who was first on the return. The law allows the Governor an election in the return of two. But to make up for this, it is a fact, that the one set aside says he will support the Governor.

Commend me to a Major of Militia who harrangued his Batalion the other day, and told them, that if the Constitution was put down, they would all be put on *half pay like the kings forces in Ireland.*

I have good information of two justices of the peace, who were commissioned during the last sessions of Assembly, and are now active against the Governor. The member of assembly who obtained commissions for them has directed this. Were I a Governor, I would be provoked enough to knock a member down, that would apply to me for a commission. It is usually the stipulation of their own elections, and any man that has supported them, is a good *republican* for the time being.

I think it no wonder that the members when they get their seats, expect what is called *Blarney* from a Governor, instead of rough words; for it is but getting what they have given; but they mistake in thinking that it is the Governor whom they are to call upon for pay. The Governor has a right to withhold flattery, and call things by ther right names; and there are always some of the constituents judicious enough to approve the *appellations.*

A member of the assembly, one of the 42 (manager Laycock) makes his defence in a Gazette, and says it is not because he could not get a place, that he is against the Governor, and the Constitution, for the Governor had *made him a judge*, and he had resigned that and gone to the Legislature.

When a United Irishman goes a fishing he baits his hook with a *German*, to catch Germans.

When a trader in a town breaks, or a tavernkeeper's keg is out, he sets up for an office, and down with *M'Kean and the Constitution.*

The opinion of the event of an election decides the vote in many cases. What a pity we have not hand-boards upon the roads to point this out.

DESULTORY REFLECTIONS,

CONTINUED.

I will not be understood to undervalue Germans, when I talk of baiting a hook with one. It will be owing to the good sense and sedate mind of the Germans, if we are saved at this time. So far as I can learn, the greater part refuse to bite at the bait. Nor do I mean to undervalue United Irishmen when I represent them as fishing with a German. The fact is, I do not know that they are fishing at all, but as alleged. I thought the cause of the Irish good, a right to the *common law*, and I regret that they have failed in the object. But what will their enlightened countrymen at home think of their running down that very cause here, and endeavouring to deprive of the *common law?* This only applies, if it is the fact that they are against M'Kean, who is opposed on the ground that he has supported the common law.

It is difficult to conceive the full extent of the hurt done to the cause of the Irish Patriots by the intemperance of the French revolutionists. And the first insurgents in Ireland by their violent councils, and horrid misdeeds, did more to ruin it than the force of government. It alarmed all men of humanity, property, or reputation. It will not do any good on the other side the water to hear that the *late emigrants* are against Thomas M'Kean and our Constitution. It will furnish a handle to all the adversaries of a *reform*, in that country, and be driving a nail *in the coffin of liberty in Ireland.*

I have mentioned manager Laycock, not out of any ill-will to the man, but as proving that though under obligation to M'Kean, yet he is against him. This I take from his address to his constituents which has appeared in a country paper, and contains his declaration. The manager cannot conceive himself included under the term *Clod-hopper;* for the presumption is, that being of *Beaver* County, his occupation has been that of trapping for that animal. It is said to have been a profitable kind of hunt at an early period, setting traps for *Beaver.* But

the resigning his judgeship to come and break judges was not so clever, for *dog does not eat dog*. But having been made a judge by the Governor, how does he reconcile it to himself to oppose him? For even a sense of duty cannot wholly extinguish the *feelings of the heart*. The Governor has *deserted the people*. Will that justify every one in deserting the Governor? Salus populi suprema lex. I take it there is a law superior even to the good of a particular community. That is, *The law of humanity*. Will the feelings of the heart approve the lifting up the hand against a sense of obligation? Not even in the case of Brutus. I am struck with finding this sentiment as old as the Jews, and older. "There is a proverb of the ancients, said David, in the case of Saul, *Wickedness proceedeth from the wicked; but mine hand shall not be upon him.*"

Is there no room to doubt in many cases, whether the motive is a sense of duty? What else can it be? A mere lucrative promotion under a new order of things? Aye, or to maintain the step that has been gained.

I asked a man the other day that came from the westward, how the people of Somerset county, came to send down upon us, that *Panther* Ogle to the legislature? He said that on the revolution in favour of the *democrats*, the election was left to themselves, and they put in Ogle, and M'Kean respecting *the will of the people made him inspector of Brigade*. The federalists to burlesque it next year left him out of the legislature, and elected him *overseer of the highways*. He *thanked* them, and applied himself to make *good roads*. Hence it is that he has been sent again to make laws. But he has taken it into his head to change the Governor and the Constitution; doubtless governed by principle. He has not as much sense as Boileau, but his voice, or *cry*, pursuing the analogy, is better. Far be it from me to speak of him with disrespect, though I use a little pleasantry. He has considerable cleverness, and I wish him well.

It is a trait of human character, that a bad heart is capable of resenting the not doing more, when what is done was of the highest bounty. The strongest instance of this proof of a bad nature that I have ever met with, was in the case of one Stewart (Thomas Leiper, the tobacconist will recollect) who was under sentence of death for forgery, and his countrymen (the Scotch) contrived his escape the morning of the day on which he was to be executed, and having concealed him some time in

general Roberdeau's garret, got him on board a brig of Blair M'Clenachan's, bound to Portugal. Having nothing that he could call his own, save the bills that he had forged; a purse was made up for him. "God damn their bloods," said he, when it was delivered, (50 guineas) "is this all? Is this the way to treat a gentleman?" However he made up for it when he got to Lisbon; for he passed himself for supercargo, and sold the brig, and disappeared with the neat proceeds, and has not been heard of that I recollect, since. This anecdote I had from Robert Bell, the bookseller.

It occurs to me reading the toasts on the 4th of July last, to wonder why it is, that now Sampsons being in vogue; we have not had a libation to the memory of *Sampson Curasco, the barber in Don Quixotte?*

Is it a fact that M'Kinney is a German, and that his bad orthography is owing to this circumstance? Kintzey, and Kuntzy is German, which is the nearest I can come to it, but Kinney is an Irish name all the world over; and Mac, has the appearance of being either Scotch or Irish.

Boileau is said to be liked in his neighbourhood, which is a good sign; but his appearances in public life are extremely juvenile. His opening speech on the impeachment of the judges was a general declamation on *liberty*, and would have answered the purpose of an oration at the head of a spring, on a 4th of July. If he lives to acquire information and solidity, he will look back on this performance with shame, and for his whole political conduct, so far as I have any knowledge of it, he will feel compunction. "This day do I remember my faults."

As they (the people of Athens) were one time telling Phocion, he had robbed them of the victory which was in their hands, he said, it is happy for you that you have a general who knows you, otherwise you would have been ruined long ago.

One day determined not to follow his advice, they refused to give him the hearing. But he said, though you can make me act against my judgment, you shall never make me speak so.

Demosthenes one of the orators of the adverse party happening to say, the Athenians will certainly kill thee Phocion, one time or other; he answered "they may kill *me* if they are mad, but *you*, if they are in their senses.

Lycurgus the orator, one day, said many disparaging things of him in the general assembly, and among the rest, observed,

that when Alexander demanded ten of their orators, Phocion gave it as his opinion, that *they should be delivered to him.* "It is true, said Phocion, I have given the people of Athens much good counsel, but they do not follow it."

Pytheas, the orator when he first began to speak in public, had a torrent of words, and the most consummate assurance. Upon which Phocion said, "is it for thee to prate so, who art but a novice amongst us." This will apply to those who are but *young in the country, or but young in the world.*

As Leosthenes continued to harangue the people in the most arrogant and pompous manner, Phocion said, "young man your speeches are like Cypress trees, large and lofty but without fruit. Hyperides then rose up and said, tell us then what will be the proper time for the Athenians to go to war?" Phocion answered, I do not think it adviseable, till the young men keep within the bounds of order and propriety, and the orators forbear robbing the public."

The people alarmed at their present situation called for Phocion; "If you had followed the council I gave you, said he, we should not now have had to deliberate upon such an affair."

He (Cato the younger) made a point of it to oppose Clodius the seditious demagogue, who was always proposing some dangerous law, or some change in the *Constitution.*

"I have great objections to the bar bill—and my objections are great in proportion to my regards for the profession, whose signal services to the cause of liberty, must prove to every man's conviction how valuable the acquisition, and how inestimable the loss of that profound and acute profession must be to the cause of a country such as this was *formerly*, when the rule of government was, *the law of the land.*" This is from Grattan's letter to the citizens of Dublin on his declining to represent them in parliament.

"We are not Bonapartes, said a member of the legislature (Beal of Mifflin) to the Governor." No: But you may be barrow-men to the mason. You may lend a hand to make a Bonaparte without meaning it.

Trial of William Orr, 18th September 97, County Antrim, Ireland, before Lord Chief Baron Yeiverton, defended by Curran and *Sampson*, (as reported.) Was this *Sampson* one of the bar in that country? If so, he was not a true *Sampson.* I do not like the Baron's charge to the jury, in this case, taking so much upon him with regard to the *credit of the witnesses*, as

the condemned takes notice in his *dying declaration.* "The judge who condemned me humanely shed tears in uttering my sentence, but whether he did wisely in so highly recommending the wretched informer who swore away my life, I do leave to his own cool reflection, solemnly assuring him and all the world, with my dying breath, that that *informer was forsworn.*"

I believe it is not understood by any one that members of Assembly (qua' members) did any act towards calling a convention. But, that, being members they drew petitions, or sent them to their counties for signing. This I would not call a misdemeanour for it is an act not cognizable by any law; but it is a misfeasance, and contrary to good policy to allow the example. Yet there is no way of getting at the offence, but by a Convention as in the Yazoo speculation; and the only punishment on the principles of association, or by the practice of nations, would be *exile.* But to call a Convention for this purpose, may not be necessary, provided that the evil is not persisted in. Nor is there proof yet of the fact. It is but surmise, and may be groundless. But it is understood to be under this idea that the Governor called them *scoundrels.*

There is no man so good or so bad as he is thought to be. I approve of some things in Duane, but I would not like to have him *super-excellency*: Governor de Jure, as well as de facto, might be well enough, because then we could go to the sovereign power at once, and we would have a real, as well as ostensible responsibility. I will not say that he will be governor *de facto* in the case of Snyder; but he will give him a great deal of *trouble* if he is not so. The advantage of his press is incalculable.

Foreigners that have been in opposition to the established government of their own countries, too hastily, when they come abroad, transfer their antipathy to the administration that exists where they are. Hence the necessity of *naturalization laws.* These will be more or less rigid 'in proportion as the conduct of emigrants is prudent, or the contrary.'

I think it morally impossible that Governor M'Kean can fail in being elected at this time. Because his cause is good; he acted from principle; and it is from the heart that every man will support him. I feel it as a species of paracide, to oppose him. I wish I could write it with the point of a diamond, and engrave it on the rocks, *Support age, and put experience in a place of trust.*

It rarely happens that a man of equal age and experience has united health and the use of faculties: a man who, if the liberty which he has assisted to establish, can be supported, will have an eulogium, and a statue. But this will be when the people have smarted under their delusions, and the rod of the inchanter is withdrawn. I scarcely know a good man of antiquity whose fate it has not been to be buffeted by Satan.

Quere, would it be an act of humanity, or the contrary, to collect the instances of ingratitude to the old Governor in his appointments to office. It would be a reproach to human nature, but it would characterize the times. A man can be unfaithful in this case with impunity, because he can pretend principle, and who can say it is not so? All I can say is, that I would never trust such a man of principle. I would support the old man even if he had appointed me but to the lowest office. For it is not the height, but the first lift, that is all to a person.

Il n'y a' que la premier pas qui coute.

He made Lucas an associate judge; that made him member of Congress; that made him Chief Justice, and Commissioner of Claims for Upper Lousiana. I wonder if Lucas wrote him a letter of acknowledgement on the occasion. Men are apt to attribute to their own merit *the light thrown on them by others.*

You will scarcely find a man that would not change something in the Constitution; but no two will agree in the particular. A member of Assembly (an Irishman) some years ago, on a question relative to the division of a county, made a speech. "Some talk of taking off a section here, and some there, said he; but *if we divide the county at all, I am for letting it stand as it is.*"

When a man has acquired property under a constitution, is it fair that one who has no property, should have an equal voice in a change? It is not fair; but how can it be helped. It furnishes an argument, however, against the *eligibility* of a change. The consideration ought to produce modesty, in urging the change. But it gives *the change of offices*, and men who have no property, most need them. Hence it is that many are "*friends of the people*," in order to get the people to be friends to them. One good turn deserves another.

It is natural for persons in jail, or who have come out by the insolvent acts, to be for a change; but it is aukward in them to call themselves "*friends of the people;*" for the common notion is, that good advice which is all they have to give is no *friendship*. This is a prejudice.

Sampson agonistes; that is Sampson the wrestler. Ours is Sampson the boxer. I mean the author of a pamphlet, Sampson against the *Philistines*, meaning the *lawyers*. I wonder they are not all dead yet, under this jaw-bone. A lawyer must have as many lives as a cat to survive this. There never was any thing equal to it since Jack Cade's times.

" Let them tarry in Jericho till their beards grow." I think of this when I read the speeches of some men in our public bodies. But I am told many of them are not so young, though their speeches are juvenile. Some persons are a long time in their nonage.

" Shall flourish in immortal youth,
Unhurt amidst the war of elements,
The wreck of matter, and the crush of sense."

In one sense of the word they are in a *minority*, even when they have the votes on their side.

The idea is held out by the editor of the Aurora of a certain judge being in *the power of the Governor*. If so, when the government comes to him (the editor) he will be in his power.

The Governor has made no decision to the legislature, or to the people. Could he not *to the judge himself by an official communication?*

Under the new Governor, a writ de quo warranto, by the *Rhilistine* that will be then attorney general; will bring all this matter into view, and the legal and *constitutional points* can be determined. Or, if the present Governor is re-elected, the houses, or *branches*, or either of them may prosecute the writ by council: say, *Rodney*, now of this state.

" His super-excellency William Duane, Governor de facto, of the state of Pennsylvania. The representation of———— humbly sheweth,

The representatives talk of *a rider* to a bill. How will they like a rider to themselves?

He will have to keep separate offices, legislative, judicial, and executive. What will his official documents be called? Licences, or permits? It will be left to the *nominal* governor to pass the acts, and put his name to the commissions.

" And the Lord sent fiery serpents among the people, and they did bite the people.

And the Lord said unto Moses, make thee a fiery serpent, and set it upon *a pole*.

And Moses made a serpent *of brass*. Numb. 16.

Hezekia brake in pieces the *brazen* serpent that Moses had made, and he called it Nehushtan. 2. Kings 18.

Why did he break it? Because "until those days the children of Israel did burn incense unto it." It was *lifted up* at first "for the healing of the people." But when it became the source of *idolatry*, it was time to destroy it.

It is said there are no snakes in Ireland; and the people are in general, good tempered; but like other countries, it sometimes produces poison and malignity.

The Gazettes announce that *Sampson the Barrister* has arrived with M'Nevin. I bid him welcome. He was for the *common law* in Ireland. It will surprize him to be called a *Philistine* if he is for it here. I hope he will be of service to set right some of the uninformed of his countrymen, who have been here before him. For *I am afraid of no man of sense let him come from whence he will.*